

**CITY OF EL PASO, TEXAS
REQUEST FOR COUNCIL ACTION (RCA)**

DEPARTMENT: Financial and Administrative Services Portfolio
AGENDA DATE: April 12, 2011
CONTACT PERSON/PHONE: William F. Studer, Deputy City Manager, Financial and Administrative Services, 541-4011 and Carmen Arrieta-Candelaria, Chief Financial Officer, 541-4293
DISTRICT(S) AFFECTED: All

SUBJECT:

An Ordinance authorizing the issuance of "City of El Paso, Texas, Airport Revenue Bonds, Series 2011 (El Paso International Airport)" and resolving matters which are necessary to effectuate said issuance, including a delegation of authority in an amount not to exceed \$16.75 million. Bond proceeds shall be utilized for the funding of the "Butterfield Trail Industrial Park Pavement Rehabilitation and Landscaping Project".

BACKGROUND / DISCUSSION:

The attached ordinance proposes the authorization of a parameters resolution for an issuance of approximately \$16.75 million of revenue bonds for the airport for the project known as the "Butterfield Trail Industrial Park Pavement Rehabilitation and Landscaping Project", hereafter referred to as the "**Project**". These Bonds are special obligations of the City of El Paso, Texas, and are issued pursuant to the general laws of the State of Texas, particularly Chapter 22, Texas Transportation Code, as amended, and Chapter 1503, Texas Government Code, as amended. The parameters are set forth in Section 2 of the Ordinance. Pursuant to Section 1201.028 of the Texas Government Code, this Ordinance is scheduled to be approved at a single meeting of the City Council and notice of this public hearing is being published as required by City Charter. The Bonds are payable solely from and secured by a first lien on and pledge of the Net Revenues of the City's Airport and from monies on deposit in certain Pledged Funds created by the Bond Ordinance. The City has not covenanted nor obligated itself to pay the Bonds from monies raised or to be raised from taxation.

On August 24, 2010, the City approved the issuance of \$15 million as part of the 2011 Budget process. Given the requirements of a Debt Service Reserve Fund (the "**Reserve**"), estimated at approximately \$1.5 million as well as the related bond issuance costs, City staff proposes to increase the size of the issuance up to \$16.75 million to include this Reserve and related costs. The net proceeds to the capital projects fund for the Project remain approximately the same amount of originally estimated. Members of City staff as well as Paul Braden, the City's Bond Counsel, will be on hand to answer questions.

PRIOR COUNCIL ACTION:

City Council authorized the "Butterfield Trail Industrial Park Pavement Rehabilitation and Landscaping Project" as part of the FY 2011 Budget Process, when the Airport's five-year Capital Improvement Program was presented as part of such process. Budget was formally adopted on August 24, 2010. This original authorization was estimated to be approximately \$15 million.

AMOUNT AND SOURCE OF FUNDING:

\$16,750,000 in bonds to be funded from revenues from the Airport.

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:

Carmen Arrieta-Candelaria

ORDINANCE NO. _____

AUTHORIZING THE ISSUANCE OF

CITY OF EL PASO, TEXAS
AIRPORT REVENUE BONDS,
SERIES 2011
(EL PASO INTERNATIONAL AIRPORT)

Adopted: April 12, 2011

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AN ORDINANCE AUTHORIZING THE ISSUANCE OF "CITY OF EL PASO, TEXAS, AIRPORT REVENUE BONDS, SERIES 2011 (EL PASO INTERNATIONAL AIRPORT)"; AND RESOLVING MATTERS WHICH ARE NECESSARY TO EFFECTUATE SAID ISSUANCE, INCLUDING THE DELEGATION OF MATTERS RELATING TO THE SALE AND ISSUANCE OF THE BONDS TO AN AUTHORIZED CITY OFFICER OR EMPLOYEE WITHIN CERTAIN SPECIFIED PARAMETERS

WHEREAS, the City of El Paso, Texas (the "City") is authorized by Chapter 1503, Texas Government Code, as amended, and Chapter 22, Texas Transportation Code, as amended, to issue revenue bonds for the purposes of (i) improving, enlarging, extending or repairing the Airport (as defined herein) or a building, improvement, landing field, or other facility the City considers necessary, desirable or convenient for the efficient operation and maintenance of the Airport, (ii) funding the Debt Service Reserve Fund Requirement and (iii) paying the costs of issuance of the bonds, said bonds to be payable solely from and secured by a pledge of, and lien on, the revenues to be derived from the operation of such Airport; and

WHEREAS, the City by this Ordinance and in accordance with the provisions of Chapter 1371, Texas Government Code, as amended ("Chapter 1371"), is delegating to the Pricing Officer (hereinafter defined) the authority to establish the terms and details related to the issuance and sale of the City of El Paso, Texas, Airport Revenue Bonds, Series 2011 (El Paso International Airport) (the "Bonds") including: (i) the form and designation of the Bonds; (ii) the principal amount of the Bonds and the amount of the Bonds to mature in each year; (iii) the dates, price, interest rates, interest payment dates, principal payment dates, and redemption features of the Bonds; and (iv) any other details relating to the issuance, sale, delivery, and/or exchange of the Bonds, all within certain specified parameters set forth herein; and such terms of sale and principal amount to be specified in a pricing certificate (the "Pricing Certificate") to be executed by the Pricing Officer; and

WHEREAS, in the ordinances authorizing the City's Parity Bonds, the City reserved the right and option to issue, under certain conditions, "Additional Parity Bonds" on a parity as to lien and right with such bonds and the City has made a determination that it is in the best interests of the City to issue the Bonds as Additional Parity Bonds at this time; and

WHEREAS, a public hearing was held, following proper publication of notice thereof, before the City Council with respect to the adoption of this Ordinance; and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

ARTICLE I

DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01 Definitions

Unless otherwise expressly provided or unless the context otherwise requires, the terms defined in this Section for all purposes of this Ordinance except Article in hereof, and any ordinance amendatory or supplemental hereto shall have the respective meanings specified:

“Act” means, collectively, Chapter 1503, Texas Government Code, as amended, and Chapter 22, Texas Transportation Code, as amended.

“Additional Parity Bonds” means the additional parity revenue bonds permitted to be issued by the City pursuant to Section 6.01 of this Ordinance.

“Airport” means (i) El Paso International Airport and all additions, extensions, replacements, and improvements thereto, and (ii) any future airport or aviation facilities, or any interest therein, from time to time hereafter owned, operated or controlled in whole or in part by the City and determined by the City to be a part of the Airport.

“Airport Consultant” means a nationally recognized independent firm, person or corporation having a widely known and favorable reputation for special skill, knowledge and experience in methods of development, operation and financing of airports of approximately the same size as the properties constituting the Airport.

“Airport Obligations” means the Parity Bonds and the Subordinate Obligations.

“Bond” means any of the Bonds.

“Bonds” means the City of El Paso, Texas, Airport Revenue Bonds, Series 2011 (El Paso International Airport), authorized by this Ordinance.

“Business Day” means a day that is not a Saturday, Sunday, legal holiday or other day on which banking institutions in the City where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located in the State of Texas are generally authorized or obligated by law or executive order to close.

“Capital Improvement Fund” means the fund so designated which is created and established pursuant to Article V of this Ordinance.

“City” means the City of El Paso, Texas, and, where appropriate, the City Council thereof, or any successor thereto as owner and operator of the Airport.

“City Council” means the governing body of the City of El Paso, Texas.

“Closing Date” means the date of the initial delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, including the regulations and published rulings thereunder.

"Completion Bonds" means each series of Parity Bonds permitted to be issued by the City pursuant to Section 6.02 of this Ordinance.

"Construction Fund" means the fund so designated which is created and established pursuant to Article V of this Ordinance.

"Debt Service Fund" means the fund so designated which is created and established pursuant to Article V of this Ordinance.

"Debt Service Requirements" means for any particular period of time, an amount equal to the sum of the following for such period with respect to all or any portion of Parity Bonds then Outstanding:

(i) That portion of interest which would accrue during such period if interest were deemed to accrue only during the 6 month period prior to its payment (12 month period in the case of capital appreciation or compound interest bonds), plus

(ii) That portion of the principal amount of such Parity Bonds which would accrue during such period if principal were deemed to accrue only during the 12 month period prior to its scheduled payment date (either at maturity or by reason of scheduled mandatory redemptions, but after taking into account all prior optional and mandatory Parity Bond redemptions);

less and except any such interest or principal for the payment of which provision has been made by (i) appropriating for such purpose amounts sufficient to provide for the full and timely payment of such interest or principal either from proceeds of bonds, from Airport funds other than Net Revenues, or from any combination of such sources (including any PFC Revenues) and (ii) depositing such amounts (except in the case of interest to be earned, which shall be deposited as received) into a dedicated fund or account, the proceeds of which are required to be transferred to the Debt Service Fund or directly to the paying agent for such Parity Bonds.

"Debt Service Reserve Fund" means the fund so designated which is created and established pursuant to Article V of this Ordinance.

"Debt Service Reserve Fund Requirement" means the amount required to be maintained in the Debt Service Reserve Fund. Such amount shall be computed and recomputed annually as a part of the City's budget process and upon the issuance of each series of Parity Bonds to be the arithmetic average of the Debt Service Requirements (determined prior to deducting any amounts deposited to the PFC Debt Service Escrow Fund) scheduled to occur in the then current and each future Fiscal Year for all Parity Bonds then Outstanding including the series of Parity Bonds then being issued. In no event, however, will the amount deposited in the Debt Service Reserve Fund that is allocable to the Parity Bonds, in accordance with Section 1.148-6 of the regulations promulgated under the Code, exceed the least of (a) 10% of the stated principal amount of each issue of which such Parity Bonds are a part, (b) the maximum annual principal and interest requirements of such issue or (c) 125% of the average annual principal and interest requirements of such issue, unless there is received an opinion of nationally recognized bond counsel to the effect that such additional amount will not cause the Parity Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and the regulations promulgated from time to time thereunder.

"Debt Service Reserve Fund Surety Bond" means (i) while any Series 2003 Bonds are outstanding, any surety bond or insurance policy having a rating in the highest respective rating categories by Moody's Investors Service and Standard & Poor's Corporation and (ii) after all Series 2003 Bonds have been defeased, any surety bond or insurance policy having an investment grade rating from at least two national rating agencies; in either case, such bond or policy issued to the City for the benefit of the Owners of the Parity Bonds to satisfy any part of the Debt Service Reserve Fund Requirement as provided in Section 5.07 of this Ordinance.

"Designated Payment/Transfer Office" means (i) with respect to the initial Paying Agent/Registrar named herein, its designated office specified in the Pricing Certificate, or at such other location designated by the Paying Agent/Registrar, and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

"Director of Aviation" means the Director of the City's Department of Aviation, any successor or any person or persons acting in such capacity.

"DTC" means The Depository Trust Company of New York, New York, or any successor securities depository.

"DTC Participant" means the brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

"El Paso International Airport" means the currently existing City owned and operated airport, consisting of approximately 6,800 acres of land, including but not limited to, Butterfield Trail Industrial Park, Butterfield Trail Aviation Park, El Paso International Airport Tracts and other lands, as well as the buildings, improvements and equipment located thereon which are owned by the City, consisting generally of the passenger terminal building, parking facilities and passenger loading and unloading areas, cargo terminal buildings, aircraft runways, ramps, aprons, taxiways, various hangars, storage facilities, miscellaneous buildings and rolling stock.

"Equipment and Capital Outlay Fund" means the fund so designated which is created and established pursuant to Article V hereof.

"Equipment and Capital Outlays" means those capital expenditures which are funded from the Equipment and Capital Outlay Fund and expensed in the year in which acquired for purposes of calculating airline rates and charges.

"Federal Payments" means those funds received by the City in connection with the Airport from the federal government or any agency thereof as payments for the use of any facilities or services of the Airport.

"Fiscal Year" means the City's fiscal year as from time to time designated by the City, which is currently September 1 to August 31.

"General Obligation Airport Bonds" means those bonds or other obligations of the City secured by a levy of ad valorem taxes from time to time issued or to be issued by the City for Airport purposes.

"Gross Revenues" means all income and revenues derived directly or indirectly by the City from the ownership, operation and use of and otherwise pertaining to the Airport, or any part thereof, whether resulting from extensions, enlargements, repairs, betterments or other improvements to the Airport, or otherwise, and includes, except to the extent hereinafter expressly excluded, all revenues received by the City from the Airport, including, without limitation, all rentals, rates, fees and other charges for the use of the Airport, or for any service rendered by the City in the operation thereof, and interest and other income realized from the investment or deposit of amounts required to be transferred or credited to the Revenue Fund. Gross Revenues expressly exclude:

- (i) proceeds of any Airport Obligations;
- (ii) interest or other investment income derived from Airport Obligation proceeds deposited to the credit of a construction fund, and all other interest or investment income not required to be transferred or credited to the Revenue Fund pursuant to Section 5.19 hereof;
- (iii) any monies received as grants, appropriations, or gifts, the use of which is limited by the grantor or donor to the construction or acquisition of Airport facilities, except to the extent any such monies shall be received as payments for the use of Airport facilities;
- (iv) revenues derived from any Special Facilities which are pledged to the payment of Special Facilities Bonds;
- (v) insurance proceeds other than loss of use or business interruption insurance proceeds;
- (vi) PFC Revenues and the receipts from any other per-passenger charge as may be hereafter lawfully authorized;
- (vii) sales and other taxes collected by the Airport on behalf of the State of Texas and any other taxing entities;
- (viii) Federal Payments received by the City in connection with the Airport to the extent that such payments, if included in Gross Revenues, would cause the interest on the Bonds to be includable within the gross income of the Owners thereof for federal income tax purposes;
- (ix) the proceeds received by the City from the sale or other disposition of all or part of the Airport property, except amounts representing interest or finance charges in a deferred sale or other similar method of conveyance where a portion of the sale price is payable on a deferred basis, in which case any interest or finance charges shall be considered Gross Revenues;
- (x) revenues that are derived from properties constituting a part of the Airport that are required to be deposited to the Restricted Land Sales Fund; and
- (xi) Other Available Funds transferred to the Revenue Fund as provided herein.

"Initial Bond" means the Initial Bond authorized by Section 2.05(d) of this Ordinance.

"Interest Payment Date" means the date or dates on which interest on the Bonds is scheduled to be paid until their respective dates of maturity or redemption, such dates being February 15 and August 15, commencing on the date specified in the Pricing Certificate.

"Issue Date" means the date designated as the Issue Date of the Bonds in the Pricing Certificate.

"Maintenance and Operating Expenses" means all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining and repairing the Airport, including, without limitation, those reasonably allocated City overhead expenses relating to the protection, administration, maintenance and operation of the Airport; insurance and fidelity bond premiums; payments to pension and other funds and to any self-insurance fund; any general and excise taxes or other governmental charges imposed by entities other than the City, any required rebate of any portion of interest income to the federal government which is payable from Gross Revenues or the Revenue Fund; costs of contractual and professional services, labor, materials and supplies for current operations, including the costs of such direct City services rendered to the Airport as are requested from the City by the Airport and as are reasonably necessary for the operation of the Airport; costs of issuance of Airport Obligations for the Airport (except to the extent paid from the proceeds thereof); fiduciary costs; costs of collecting and refunding Gross Revenues; utility costs; any lawful refunds of any Gross Revenues; and all other administrative, general and commercial expenses, but excluding:

- (i) any allowance for depreciation;
- (ii) costs of capital improvements, including any liabilities incurred or accrued in connection therewith;
- (iii) reserves for major capital improvements, Airport operations, maintenance or repair,
- (iv) any allowance for redemption of, or payment of interest or premium on, Airport Obligations;
- (v) expenses of lessees under Special Facilities Leases and maintenance and operating expenses pertaining to Special Facilities to the extent they are required to be paid by such lessees pursuant to the terms of the Special Facilities Leases;
- (vi) any charges or obligations incurred in connection with any lawful Airport purpose, including the lease, acquisition, operation or maintenance of any facility or property benefitting the Airport, provided that the payment of such charges or obligations is expressly agreed by the payee to be payable solely from proceeds of the Capital Improvement Fund;
- (vii) payment of liabilities based upon the City's negligence or other grounds not based on contract; and
- (viii) so long as Federal Payments are excluded from Gross Revenues, an amount of expenses that would otherwise constitute Maintenance and Operating Expenses for such period equal to the Federal Payments for such period.

"Maintenance and Operating Reserve Fund" means the fund so designated which is created and established pursuant to Article V of this Ordinance.

"Maturity Date" means the date specified in the Pricing Certificate on which the principal of the Bonds is due and payable.

"MSRB" means the Municipal Securities Rulemaking Board.

"Net Revenues" means that portion of the Gross Revenues remaining after the deduction of the Maintenance and Operating Expenses of the Airport.

"Ordinance" means this Bond Ordinance and all amendments hereof and supplements hereto.

"Other Available Funds" means any amount of unencumbered funds accumulated in the Operating Account of the Capital Improvement Fund which, prior to the beginning of any Fiscal Year, is designated by the City as Other Available Funds and are transferred at the beginning of such Fiscal Year to the Revenue Fund; but in no event may such amount exceed twenty-five percent (25%) of the Debt Service Requirements (determined prior to deducting any amounts deposited to the PFC Debt Service Escrow Fund) for the Parity Bonds for such Fiscal Year for purposes of Sections 5.03 and 6.01 hereof.

"Outstanding" when used with reference to any Airport Obligations means, as of a particular date, all those obligations theretofore and thereupon delivered except: (a) any such obligation paid, discharged or canceled by or on behalf of the City at or before said date; (b) any such obligation defeased pursuant to the defeasance provisions of the ordinance authorizing its issuance, or otherwise defeased as permitted by applicable law; and (c) any such obligation in lieu of or in substitution for which another obligation shall have been delivered pursuant to the ordinance authorizing the issuance of such obligation.

"Owner" or "Registered Owner," when used with respect to any Parity Bond means the person or entity in whose name such Bond is registered in the Register. Any reference to a particular percentage or proportion of the Owners shall mean the Owners at a particular time of the specified percentage or proportion in aggregate principal amount of all Parity Bonds then Outstanding under this Ordinance.

"Parity Bonds" means the Series 2003 Bonds, the Bonds and each series of Additional Parity Bonds or Completion Bonds from time to time hereafter issued.

"Passenger Facility Charge" means the charge approved by Federal Aviation Administration, pursuant to Title 14, Code of Federal Regulations (CFR) 158, as amended, which is imposed on enplaned passengers at El Paso International Airport.

"Paying Agent/Registrar" means, for the Bonds, Wells Fargo Bank, National Association (or such other entity or banking association determined by the Pricing Officer in the Pricing Certificate), or any successor thereto or replacement therefor as provided in this Ordinance.

"PFC Act" or "PFC Regulations" means respectively 49 USC §40117, as amended, and Title 14, Code of Federal Regulations (CFR) Part 158, as amended.

"PFC Debt Service Escrow Fund" means the fund so designated which is created and established pursuant to Article V of this Ordinance.

"PFC Fund" means the fund so designated which is created and established pursuant to Article V of this Ordinance.

"PFC Revenues" means the Passenger Facility Charge receipts collected from enplaned passengers at El Paso International Airport, less any collection or service fee retained by the collecting airlines, which have been approved by the Federal Aviation Administration, pursuant to the PFC Regulations, which are remitted to the City, plus interest earnings thereon.

"PFC-approved Project Costs" means costs that are approved by the Federal Aviation Administration for PFC funding in accordance with the PFC Regulations.

"Pledged Funds" shall have the meaning given it in Section 5.01(d).

"Pricing Certificate" means the pricing certificate that sets forth the terms of the Bonds in accordance with Section 2.02 of this Ordinance and is executed by the Pricing Officer, all in accordance with the provisions of Chapter 1371.

"Pricing Officer" means the City Manager, the Deputy City Manager for Finance and Management Support Services, the Chief Financial Officer of the City or the Director of Aviation, each, acting in such capacity severally and not jointly.

"Record Date" means the last business day of the month preceding an Interest Payment Date.

"Register" means the books of registration kept by the Paying Agent/Registrar in which are maintained the names and addresses of and the principal amounts registered to each Owner.

"Renewal and Replacement Fund" means the fund so designated which is created and established pursuant to Article V of this Ordinance.

"Renewal and Replacement Fund Requirement" means the amount required to be maintained in the Renewal and Replacement Fund pursuant to Article V of this Ordinance, or any greater amount required by any ordinance authorizing any series of additional Parity Bonds.

"Representation Letter" means the Blanket Letter of Representation among the City, the Paying Agent/Registrar and DTC.

"Restricted Land Sales Fund" means the fund so designated which is created and established pursuant to Article V of this Ordinance.

"Revenue Fund" means the fund so designated which is created and established pursuant to Article V of this Ordinance.

"Rule" means SEC Rule 15c2-12, as amended from time to time.

"SEC" means the United States Securities and Exchange Commission.

"Series 2003 Bonds" means the "City of El Paso, Texas, Airport Revenue Bonds, Series 2003 (El Paso International Airport)," dated September 15, 2003, originally issued in the principal amount of \$18,000,000.

"Special Facilities" means structures, hangars, terminals, cargo, aircraft overhaul, maintenance or repair shops, heliports, hotels, storage facilities, garages, in-flight kitchens, training facilities and any and all other facilities and appurtenances being a part of or related to the Airport, the cost of the construction or other acquisition of which is financed with the proceeds of Special Facilities Bonds.

"Special Facilities Bonds" means those bonds from time to time hereafter issued by the City pursuant to Section 6.04 hereof.

"Special Facilities Lease" means any lease or agreement, howsoever denominated, pursuant to which a Special Facility is leased by the City to the lessee in consideration for which the lessee agrees to pay (i) all debt service on the Special Facilities Bonds issued to finance the Special Facility (which payments are pledged to secure the Special Facilities Bonds) and (ii) the maintenance and operating expenses of the Special Facility.

"Special Payment Date" means the date that is fifteen (15) days after the Special Record Date.

"Special Record Date" means the new record date for interest payment established in the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter as described in Section 2.04(e).

"Subordinate Debt Fund" means the fund so designated which is created and established pursuant to Article V of this Ordinance.

"Subordinate Obligations" means each series of bonds, notes or other obligations, including reimbursement obligations, which the City has reserved the right to issue or incur from time to time pursuant to Section 6.03 of this Ordinance as Subordinate Obligations secured in whole or in part by liens on the Net Revenues that are junior and subordinate to the lien on Net Revenues securing payment of the Parity Bonds.

"Unclaimed Payments" means money deposited with the Paying Agent/Registrar for the payment of principal, redemption premium, if any, or interest on the Bonds as the same become due and payable or money set aside for the payment of the Bonds called for redemption, if any, prior to maturity and remaining unclaimed by the Owners of such Bonds for 90 days after the applicable payment or redemption date.

"Underwriter" means, with respect to the Bonds, the initial purchasers named in the Pricing Certificate.

Section 1.02 Interpretations

All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally

construed to effectuate the purposes set forth herein and to sustain the validity of the Parity Bonds and the validity of the lien on and pledge of the Net Revenues to secure the payment of the Parity Bonds.

ARTICLE II

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE BONDS

Section 2.01 Name, Amount, Purpose, Authorization

The Bonds to be designated the "City of El Paso, Texas, Airport Revenue Bonds, Series 2011 (El Paso International Airport)," are hereby authorized to be issued and delivered in accordance with the Constitution and laws of the State of Texas, particularly Chapter 1371, and the Charter of the City. The Bonds shall be issued in the aggregate principal amount specified in the Pricing Certificate for the purposes of (i) improving, enlarging, extending or repairing the Airport or a building, improvement, landing field, or other facility the City considers necessary, desirable or convenience for the efficient operation and maintenance of the Airport, (ii) funding the Debt Service Reserve Fund and (iii) paying the costs of issuing the Bonds.

Section 2.02 Delegation of Authority to Pricing Officer

(a) As authorized by the Chapter 1371, the Pricing Officer is hereby authorized to act on behalf of the City in selling and delivering the Bonds and carrying out the other procedures specified in this Ordinance, determining the aggregate principal amount of the Bonds, the Issue Date, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the years in which the Bonds will mature or Maturity Date, the terms of any bond insurance applicable to the Bonds, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the Interest Payment Dates, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, the designation of a Paying Agent/Registrar, the designation of an escrow agent, if necessary, and all other matters relating to the issuance, sale, and delivery of the Bonds all of which shall be specified in the Pricing Certificate; provided that:

(i) the aggregate original principal amount of the Bonds issued hereunder shall not exceed \$16,750,000;

(ii) the aggregate true interest cost for the Bonds shall not exceed 5.95%; and

(iii) the maximum maturity date for the Bonds shall not exceed December 31, 2035.

(b) In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not exceeding the amount authorized in Subsection (a) (i) above, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. Unless otherwise extended by an act of City Council, the delegation made hereby shall expire if not exercised by the Pricing Officer on or prior to October 11, 2011. The Bonds shall be sold by negotiated sale to the Underwriter, at such price and with and subject to such terms as set forth in the Pricing Certificate.

(c) The execution of the Pricing Certificate shall evidence the sale date of the Bonds by the City to the Underwriter.

(d) If the Pricing Officer determines that such insurance results in a net reduction of the City's interest costs associated with the Bonds, then the Pricing Officer is authorized, in connection with effecting the sale of the Bonds, to obtain from a municipal bond insurance company (the "Insurer") a municipal bond insurance policy in support of the Bonds. To that end, should the Pricing Officer exercise such authority and commit the City to obtain a municipal bond insurance policy, for so long as such policy is in effect, the requirements of the Insurer relating to the issuance of said policies are incorporated by reference into this Ordinance and made a part hereof for all purposes, notwithstanding any other provision of this Ordinance to the contrary. Each of the City Manager, the Deputy City Manager for Finance and Management Support Services, the City's Chief Financial Officer or the Director of Aviation, and the Pricing Officer shall have the authority to execute any documents to effect the issuance of said policy by the Insurer.

Section 2.03 Date, Denomination, Maturities, Numbers and Interest

(a) The Bonds shall have the Issue Date specified in the Pricing Certificate. The Bonds shall be in fully registered form, without coupons, and shall be numbered consecutively from one upward, except the Initial Bond, which shall be numbered as specified in Section 4.04.

(b) The Bonds shall be in the denomination of \$5,000 or any integral multiple thereof, shall mature on August 15 in the years and in the principal amounts and shall bear interest at the per annum rates set forth in the Pricing Certificate.

(c) Interest shall accrue and be paid on each Bond respectively until its maturity or earlier redemption from the date specified in the Pricing Certificate or the most recent Interest Payment Date to which interest has been paid or provided for at the per annum rates specified in the schedule contained in the Pricing Certificate. Such interest shall be payable semiannually on February 15 and August 15 of each year, commencing on the date specified in the Pricing Certificate, computed on the basis of a 360-day year of twelve 30-day months.

Section 2.04 Medium, Method and Place of Payment

(a) The principal of and interest on the Bonds shall be paid in lawful money of the United States of America.

(b) Interest on each Bond shall be paid by check dated as of the Interest Payment Date, and sent first class United States mail, postage prepaid, by the Paying Agent/Registrar to each Owner, as shown in the Register at the close of business on the Record Date, at the address of each such Owner as such appears in the Register or by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to whom interest is to be paid; provided, however, that such person shall bear all risk and expense of such other customary banking arrangements.

(c) The principal of each Bond shall be paid to the Owner of such Bond on the due date thereof (whether at the Maturity Date or the date of prior redemption thereof) upon presentation and surrender of such Bond at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(d) If the date for the payment of the principal of or interest on the Bonds is not a Business Day, the date for such payment shall be the next succeeding Business Day, and payment on such date shall for all purposes be deemed to have been made on the due date thereof as specified in this Section.

(e) In the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date" that shall be fifteen (15) days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each Owner of a Bond appearing on the books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice.

(f) Unclaimed Payments shall be segregated in a special escrow account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owner of the Bonds to which the Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, payments remaining unclaimed by the Owners entitled thereto for three years after the applicable payment or redemption date shall be applied to the next payment or payments on the Bonds thereafter coming due and, to the extent any such money remains after the retirement of all outstanding Bonds, shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any Owners of such Bonds for any further payment of such unclaimed moneys or on account of any such Bonds, subject to Title 6 of the Texas Property Code.

Section 2.05 Execution and Registration of Bonds

(a) The Bonds shall be executed on behalf of the City by the Mayor and attested by the City Clerk or Alternate City Clerk of the City, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of said officers, and such facsimile seal on the Bonds shall have the same effect as if the official seal of the City had been manually impressed upon each of the Bonds.

(b) In the event any officer of the City whose manual or facsimile signature appears on the Bond ceases to be such officer before the authentication of such Bond or before the delivery thereof, such facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Bonds. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Bond delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of

Public Accounts of the State of Texas, or by his duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one Initial Bond, being a single Initial Bond representing the entire principal amount of the Bonds, payable in stated installments to the Underwriter or its designee, to be executed by manual or facsimile signature of the Mayor and attested by the City Clerk or Alternate City Clerk of the City, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the Underwriter or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver registered definitive Bonds to DTC in accordance with Section 2.10.

Section 2.06 Ownership

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute owner of such Bond for the purpose of making and receiving payment of the principal thereof and premium, if any, thereon, and for the further purpose of making and receiving payment of the interest thereon (subject to the provisions herein that interest is to be paid to the person in whose name the Bond is registered on the Record Date or Special Record Date, as applicable), and for all other purposes whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the person deemed to be the Owner of any Bond in accordance with this Section shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid.

Section 2.07 Registration, Transfer and Exchange

(a) So long as any Bonds remain outstanding, the Paying Agent/Registrar shall keep the Register at its Designated Payment/Transfer Office in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of the Bonds in accordance with the terms of this Ordinance.

(b) The ownership of a Bond may be transferred only upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar, duly endorsed for transfer, or accompanied by an assignment duly executed by the Registered Owner or his authorized representative in form satisfactory to the Paying Agent/Registrar. No transfer of any Bond shall be effective until entered in the Register.

(c) Upon due presentation of any Bond for transfer, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor, within 72 hours after such presentation, a new Bond or Bonds, registered in the name of the transferee or transferees, in authorized denominations and of the same maturity and aggregate principal amount and bearing interest at the same rate as the Bond or Bonds so presented.

(d) All Bonds shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Bond or Bonds of

the same maturity and interest rate and in any authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of the Bond or Bonds presented for exchange.

(e) The Paying Agent/Registrar shall be and is hereby authorized to authenticate and deliver exchange Bonds in accordance with the provisions of this Section.

(f) Each Bond delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such Bond is delivered.

(g) The City will pay the Paying Agent/Registrar's reasonable and customary charge for the initial registration of the Bonds and the subsequent exchange of the Bonds pursuant to the provisions hereof. However, the Paying Agent/Registrar will require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Bond. In addition, the City hereby covenants with the Owners of the Bonds that it will (i) pay the reasonable and standard or customary fees and charges of the Paying Agent/Registrar for its services with respect to the payment of the principal of and interest on the Bonds, when due, and (ii) pay the fees and charges of the Paying Agent/Registrar for services with respect to the transfer, registration and exchange of Bonds as provided herein to the extent such fees and charges are payable hereunder by the City.

(h) The Paying Agent/Registrar shall not be required to transfer or exchange any Bond during the 45-day period prior to the date fixed for redemption; provided, however, that such restriction shall not apply to the transfer or exchange by the Registered Owner of the unredeemed portion of a Bond called for redemption in part

Section 2.08 Cancellation

(a) All Bonds paid or redeemed in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance herewith, shall be canceled and destroyed upon the making of proper records regarding such payment or redemption.

(b) The Paying Agent/Registrar shall periodically furnish the City with certificates of destruction of such Bonds.

Section 2.09 Replacement Bonds

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like maturity, interest rate, and principal amount, bearing a number not contemporaneously outstanding.

(b) The City or the Paying Agent/Registrar shall require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including the fees and expenses of the Paying Agent/Registrar.

(c) If any Bond is lost, apparently destroyed, or wrongfully taken, the City, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such

Bond has been acquired by a bona fide purchaser, shall execute and the Paying Agent/Registrar shall authenticate and deliver a replacement Bond of like maturity, interest rate, and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner thereof shall have:

(i) furnished to the City and the Paying Agent/Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Bond;

(ii) furnished such security or indemnity as may be required by the Paying Agent/Registrar and the City to save them harmless;

(iii) paid all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that may be imposed; and

(iv) met any other reasonable requirements of the City and the Paying Agent/Registrar.

(d) If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(e) If any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the City in its discretion may, instead of issuing a replacement Bond, authorize the Paying Agent/Registrar to pay such Bond.

(f) Each replacement Bond delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

Section 2.10 Book-Entry Only System

(a) The definitive Bonds shall be initially issued in the form of a separate single fully registered Bond for each of the maturities thereof. Upon initial issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of DTC, and except as provided in Section 2.11 hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

(b) With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, neither the City nor the Paying Agent/Registrar shall have any responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds, except as provided in this Ordinance. Without limiting the immediately preceding sentence, neither the City nor the Paying Agent/Registrar shall have any responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice

with respect to the Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown in the Register of any amount with respect to principal of, premium, if any, or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Register as the absolute Owner of such Bond for the purpose of payment of principal of, premium, if any, and interest on the Bonds, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfer with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of, premium, if any, and interest on the Bonds only to or upon the order of the respective Owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of, premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. No person other than an Owner, as shown in the register, shall receive a Bond certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks or drafts being mailed to the registered Owner at the close of business on the Record Date, the word "Cede & Co." in this Order shall refer to such new nominee of DTC.

(c) The blanket Representation Letter previously executed and delivered by the City, and applicable to the City's obligations delivered in book-entry-only form to DTC as securities depository, is hereby ratified and approved for the Bonds.

Section 2.11 Successor Securities Depository: Transfer Outside Book-Entry Only System

In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the Representation Letter, and that it is in the best interest of the beneficial owners of the Bonds that they be able to obtain certificated Bonds, or in the event DTC discontinues the services described herein, the City or the Paying Agent/ Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants, as identified by DTC, of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants, as identified by DTC, of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts, as identified by DTC. In such event, the Bonds shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Ordinance.

Section 2.12 Payments to Cede & Co.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bonds are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, premium, if any, and interest on such Bonds, and all notices with respect to such

Bonds, shall be made and given, respectively, in the manner provided in the Representation Letter.

ARTICLE III

REDEMPTION OF BONDS BEFORE MATURITY

Section 3.01 Limitation on Redemption

The Bonds shall be subject to redemption before scheduled maturity only as provided in the Pricing Certificate.

ARTICLE IV

FORM OF THE BONDS

Section 4.01 Form Generally

(a) The Bonds, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Certificate of the Paying Agent/Registrar, and the Assignment form to appear on each of the Bonds (i) shall be substantially in the form set forth in this Article or in the Pricing Certificate, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and with the Bonds to be completed and modified with the information set forth in the Pricing Certificate, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the Pricing Officer. The Pricing Certificate shall set forth the final and controlling forms and terms of the Bonds. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

(b) Any portion of the text of any Bonds may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Bonds.

(c) The Bonds, including the Initial Bond submitted to the Attorney General of the State of Texas, shall be typewritten, photocopied, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Bond, as evidenced by their execution thereof.

Section 4.02 Form of the Bonds

The form of the Bonds, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Bonds, shall be substantially as follows:

REGISTERED
No. _____

REGISTERED
\$ _____

(Face of Bond)

UNITED STATES OF AMERICA
STATE OF TEXAS

CITY OF EL PASO, TEXAS
AIRPORT REVENUE BOND, SERIES 2011
(EL PASO INTERNATIONAL AIRPORT)

INTEREST RATE MATURITY DATE ISSUE DATE: CUSIP:
_____ % _____ _____, 20__ _____

REGISTERED OWNER: _____

PRINCIPAL AMOUNT: _____ DOLLARS

The CITY OF EL PASO, TEXAS, a municipal corporation, situated principally in El Paso County, Texas (the "City") for value received hereby promises to pay, solely from the Net Revenues and special funds hereinafter specified and from no other source, to the Registered Owner identified above or registered assigns, on the Maturity Date specified above, upon presentation and surrender of this bond at the designated payment/transfer office in Minneapolis, Minnesota (the "Designated Payment/Transfer Office") of Wells Fargo Bank, National Association, Dallas, Texas (the "Paying Agent/Registrar"), or at the Designated Payment/Transfer Office of any successor thereto, the Principal Amount identified above, in any coin or currency of the United States of America which on the date of payment of such principal is legal tender for the payment of debts due the United States of America, and to pay, solely from such Net Revenues and special funds, interest thereon at the rate shown above, calculated on the basis of a 360-day year composed of twelve 30-day months, from the later of the Issue Date shown above, or the most recent interest payment date to which interest has been paid or duly provided for. Interest on this bond is payable on each February 15 and August 15 beginning _____, 20__, until the maturity or redemption date of this bond or until the City's obligation with respect to this bond has been satisfied. Interest on this bond shall be payable by check or draft mailed by first class mail by the Paying Agent/Registrar to the registered owner of record as of the previous January 31 and July 31 as shown on the books of registration kept by the Paying Agent/Registrar, or by such method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense, of the Registered Owner hereof.

THIS BOND IS ONE OF A DULY AUTHORIZED ISSUE OF BONDS, aggregating \$ _____ (the "Bonds"), issued pursuant to an ordinance adopted by the City Council of the City (herein the "Ordinance") for the purpose of _____, and paying certain costs of issuance of the Bonds, under and pursuant to the authority of Chapter 1503, Texas Government Code, as amended, and Chapter 22, Texas Transportation Code, as amended, and all other applicable law.

THIS BOND AND ALL OF THE Bonds are special obligations of the City that are equally and ratably payable from and secured by a first lien on the "Net Revenues" and certain

special funds of the "Airport," which Net Revenues, together with certain additional Parity Bond proceeds or other lawfully available funds, are required to be set aside for and pledged to the payment of the Bonds, and all other "Parity Bonds" hereafter issued or incurred on a parity therewith, in the debt service fund and the debt service reserve fund required to be maintained for the payment of all such bonds, all as more fully described and provided for in the Ordinance. This bond and the series of which it is a part, together with the interest thereon, are payable solely from such Net Revenues and special funds and do not constitute an indebtedness or general obligation of the City.

THIS BOND shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this bond either (i) is registered by the Comptroller of Public Accounts of the State of Texas by registration Certificate attached or affixed hereto or (ii) is authenticated by the Paying Agent/Registrar by due execution of the authentication certificate manually endorsed hereon. Such duly executed certificate of authentication shall be conclusive evidence that this bond was delivered by the Paying Agent/Registrar under the provisions of the Ordinance.

The City has reserved the option to redeem the Bonds maturing on or after _____, 20____, in whole or in part in principal amount equal to \$5,000 or any integral multiple thereof, before their respective scheduled maturity dates, on _____, 20____, or on any date thereafter, at a price equal to the principal amount of the Bonds so called for redemption plus accrued interest to the date fixed for redemption. If less than all of the Bonds are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Bonds, or portions thereof, within such maturity and in such principal amounts, for redemption.

PRINCIPAL MAY BE REDEEMED IN PART only in integral multiples of \$5,000. If a Bond subject to redemption is in a denomination larger than \$5,000, a portion of such Bond may be redeemed, but only in integral multiples of \$5,000. In selecting portions of Bonds for redemption, the Paying Agent/Registrar shall treat each Bond as representing that number of Bonds of \$5,000 denomination which is obtained by dividing the principal amount of such Bond by \$5,000. Upon surrender of any Bond for redemption in part, the Paying Agent/Registrar, in accordance with the provisions of the Ordinance, shall authenticate and deliver in exchange therefor a Bond or Bonds of like maturity and interest rate in an aggregate principal amount equal to the unredeemed portion of the Bond so surrendered.

[THE BONDS stated to mature on _____, 20____ and _____, 20____ (the "Term Bonds") are subject to scheduled mandatory redemption and will be redeemed by the City, in part at a price equal to the principal amount thereof, without premium, plus accrued interest to the redemption date, out of moneys available for such purpose in the Debt Service Fund, on the dates and in the respective principal amounts as set forth in the following schedule:

Term Bonds Maturing _____, 20____	
<u>Redemption Date</u>	<u>Principal Amount</u>
_____, 20____	\$,000
_____, 20____ (maturity)	\$,000

Term Bonds Maturing _____, 20____	
<u>Redemption Date</u>	<u>Principal Amount</u>
_____, 20____	\$,000

_____ ,20 _____	\$,000
_____ ,20 _____	\$,000
_____ ,20 _____ (maturity)	\$,000

The Paying Agent/Registrar will select by lot or by any other customary method that results in a random selection the specific Term Bonds (or with respect to Term Bonds having a denomination in excess of \$5,000, each \$5,000 portion thereof) to be redeemed by mandatory redemption. The principal amount of Term Bonds required to be redeemed on any redemption date pursuant to the foregoing mandatory sinking fund redemption provisions hereof shall be reduced, at the option of the City, by the principal amount of any Term Bonds which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.]

NOTICE OF ANY MANDATORY OR OPTIONAL REDEMPTION identifying the Bonds to be redeemed in whole or in part shall be given by the Paying Agent/Registrar at least 30 days prior to the date fixed for redemption by sending written notice by first class mail to the Registered Owner of each Bond to be redeemed in whole or in part at the address shown on the Register. Such notice shall state the redemption date, the redemption price, the amount of accrued interest payable on the redemption date, the place at which Bonds are to be surrendered for payment and, if less than the entire principal amount of a Bond is to be redeemed, the portion thereof to be redeemed. Any notice given as provided in this paragraph shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice. By the date fixed for redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the redemption price of the Bonds to be redeemed, plus accrued interest to the date fixed for redemption. When the Bonds have been called for redemption in whole or in part and due provision has been made to redeem same as herein provided, the Bonds or portions thereof so redeemed shall no longer be regarded as Outstanding except for the purpose of receiving payment solely from the funds so provided for redemption, and the rights of the Owners to collect interest which would otherwise accrue after the redemption date on any Bond or portion thereof called for redemption shall terminate on the date fixed for redemption.

WITH RESPECT TO ANY OPTIONAL REDEMPTION OF THE BONDS, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

THIS BOND IS TRANSFERABLE only upon presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, duly endorsed for transfer or

accompanied by an assignment duly executed by the registered owner or his authorized representative, subject to the terms and conditions of the Ordinance.

THE BONDS ARE EXCHANGEABLE at the Designated Payment/Transfer Office of the Paying Agent/Registrar for Bonds in the principal amount of \$5,000 or any integral multiple thereof, subject to the terms and conditions of the Ordinance.

THE PAYING AGENT/REGISTRAR IS NOT REQUIRED TO ACCEPT any Bond for transfer or exchange during the 45-day period prior to the date fixed for redemption.

THE OWNER OF THIS BOND shall never have the right to demand payment of this bond or the interest thereon out of any funds raised or to be raised by taxation and this bond shall not be deemed to constitute a pledge of the faith and credit of the City.

THE CITY HAS RESERVED THE RIGHT TO ISSUE ADDITIONAL PARITY REVENUE BONDS, and subordinate or inferior obligations, subject to the restrictions contained in the Ordinance, which may be secured by a lien on a parity with, or subordinate or inferior to, the lien on the aforesaid Net Revenues securing this bond and the series of which it is a part.

THE ORDINANCE CONTAINS PROVISIONS permitting the City to defease the Ordinance and to amend the Ordinance under certain circumstances. Any amendment to the Ordinance shall be binding upon the Owner of this bond without endorsement hereon or any reference to such amendment, provided that no amendment shall permit, among other changes, (a) an extension of the maturity of the principal of or the interest on this bond, or (b) a reduction of the principal amount of this bond or the rate of interest thereon.

IT IS HEREBY CERTIFIED, RECITED AND REPRESENTED that the issuance of the Bonds is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid have been properly done and performed and have happened in regular and due time, form and manner, as required by law; that due provision has been made for the payment of the principal of and interest on the Bonds by granting a first lien on and pledge of the Net Revenues and special funds as provided in the Ordinance; and that the issuance of the Bonds does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City has caused its corporate seal to be duly impressed or placed in facsimile hereon and this bond to be executed in its name by the Mayor of the City and attested by the City Clerk or Alternate City Clerk by their manual, lithographed, or printed facsimile signatures.

City Clerk,
City of El Paso, Texas

Mayor
City of El Paso, Texas

[SEAL]

(a) Registration of Bonds by State Comptroller. The Bonds initially delivered hereunder shall be registered by the Comptroller of Public Accounts of the State of Texas, as provided by law. The registration certificate of the Comptroller of Public Accounts for such

Bonds shall be attached or affixed to the Bonds initially issued and shall be in substantially the following form. The Comptroller's Registration Certificate may be deleted from the definitive Bonds if such certificate on the Initial Bond is fully executed.

OFFICE OF THE COMPTROLLER
OF PUBLIC ACCOUNTS
THE STATE OF TEXAS

§
§
§

REGISTER NO. _____

I HEREBY CERTIFY that there is on file and of record in my office a certificate of the Attorney General of the State of Texas to the effect that this bond has been examined by him as required by law, and that he finds that it has been issued in conformity with the Constitution and laws of the State of Texas, and that it is a valid and binding special obligation of the City of El Paso, Texas, payable from the revenues pledged to its payment by and in the ordinance authorizing the same; and this bond has this day been registered by me.

WITNESS MY HAND AND SEAL OF OFFICE this _____.

Comptroller of Public Accounts
of the State of Texas

[SEAL]

(b) Form of Authentication Certificate of Paying Agent/Registrar.

The following form of authentication certificate of paying agent/registrar shall be printed on the face of each of the Bonds. The Authentication Certificate of Paying Agent/Registrar may be deleted from the Initial Bond if the Comptroller's Registration Certificate appears thereon.

AUTHENTICATION CERTIFICATE OF PAYING AGENT/REGISTRAR

It is hereby certified that this bond is one of the Bonds described in and delivered pursuant to the Ordinance described in the text of this bond, in exchange for or in replacement of a bond, bonds or a portion of a bond or bonds of a Series which was originally approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, as shown by the records of the Paying Agent/Registrar.

The designated office of the Paying Agent/Registrar in Minneapolis, Minnesota is the designated payment/transfer office for this Bond.

WELLS FARGO BANK,
NATIONAL ASSOCIATION,
as Paying Agent/Registrar

Dated: _____

By: _____
Authorized Officer

(c) Form of Assignment.

The following form of assignment shall be printed on the back of each of the Bonds:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto
(print or typewrite name, address and Zip Code of transferee):

(Social Security or other identifying number: _____) the within Bond and all rights hereunder and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration hereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed By:

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

Authorized Signatory

Section 4.03 Legal Opinions: CUSIP Numbers: Bond Insurance

The approving opinion of Fulbright & Jaworski L.L.P. and CUSIP Numbers will be printed on the Bonds, but errors or omissions in the printing of such opinion or such numbers shall have no effect on the validity of the Bonds. The Bonds may bear an appropriate legend with respect to a municipal bond insurance policy, if any.

Section 4.04 Initial Bond

The Initial Bond shall be in the form set forth in Section 4.02 of this Article, except for the following alterations:

(a) immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and "CUSIP" shall be deleted;

(b) in the first paragraph of the Bond, the words "the Maturity Date specified above" shall be deleted and the following will be inserted: "August 15 in each of the years, in the principal installments and bearing interest at the per annum rates in accordance with the following schedule:

Years

Principal Installments

Interest Rate

(Information to be inserted from the Pricing Certificate)

(c) in the first paragraph of the Bond, the words "the Principal Amount identified above," shall be deleted.

(d) Initial Bond shall be numbered T-1.

ARTICLE V

SECURITY AND SOURCE OF PAYMENT FOR ALL PARITY BONDS

Section 5.01 Pledge and Source of Payment

(a) The City hereby covenants and agrees that Gross Revenues shall be deposited and paid into the special funds hereinafter established, and shall be applied in the manner hereinafter set forth, in order to provide for the payment of all Maintenance and Operating Expenses of the Airport and to provide for the payment of all principal, interest and any redemption premiums on the Parity Bonds and all expenses of providing for their full and timely payment in accordance with their terms.

(b) The Parity Bonds shall constitute special obligations of the City that shall be payable from, and shall be equally and ratably secured by a first lien on, the Net Revenues.

(c) Such Net Revenues, together with certain proceeds of the Parity Bonds or other lawfully available funds of the City, shall, in the manner herein provided, be set aside for and pledged to the payment of the Parity Bonds in the Debt Service Fund and the Debt Service Reserve Fund as hereinafter provided.

(d) The City hereby grants a first lien on the Net Revenues and further grants a first lien on the Debt Service Fund, the Debt Service Reserve Fund, the PFC Debt Service Escrow Fund and the Capitalized Interest Account (collectively, the "Pledged Funds") to secure the payment of principal of, premium, if any, and interest on the Parity Bonds and all expenses of providing for their full and timely payment in accordance with their terms.

(e) All Parity Bonds shall be in all respects on a parity with and of equal dignity with one another.

(f) The owners of the Parity Bonds shall never have the right to demand payment of either the principal of, interest on or any redemption premium on the Parity Bonds out of any funds raised or to be raised by taxation.

(g) The City represents that, under Chapter 1208.002, Texas Government Code, a security interest in property, other than real property, that is created by the City is valid and effective according to the terms of the security agreement and is perfected from the time the security agreement is entered into or adopted continuously through the termination of the security interest, without physical delivery or transfer of control of the property, filing of a document, or another act. The City covenants that, if Chapter 1208.002 is amended at any time while the Bonds are outstanding and unpaid, the City shall take all actions required in order to preserve for the Owners of the Bonds a perfected security interest in the property in which such security interest is granted pursuant to Section 5.01 hereof.

Section 5.02 Annual Budget

(a) So long as any Parity Bonds remain Outstanding, the Director of Aviation shall, prior to the commencement of each Fiscal Year, prepare and deliver to the City Council a recommended annual budget for the Airport for such Fiscal Year.

(b) The City Council shall adopt annual budgets for the Airport for each Fiscal Year, each of which shall contain an estimate of Gross Revenues and only such budgeted expenditures as will produce Net Revenues in an amount not less than the Net Revenues necessary to comply with the rate covenant in Section 5.03 below.

(c) After the adoption of the annual Airport budget by the City Council, the total expenditures for Maintenance and Operating Expenses may not exceed the total expenditures authorized for such purposes by such budget, as it may from time to time be amended.

Section 5.03 Rate Covenant

(a) The City covenants that it will at all times fix, charge, impose and collect rentals, rates, fees and other charges for the use of the Airport, and, unless prohibited by state or federal law, revise the same as may be necessary or appropriate, in order that in each Fiscal Year the Net Revenues will be at least sufficient to equal the larger of either:

(i) all amounts required to be deposited in such Fiscal Year to any Fund or Account required by the terms hereof, or

(ii) an amount, together with Other Available Funds, not less than 125% of the Debt Service Requirements for the Parity Bonds for such Fiscal Year.

(b) If the Net Revenues in any Fiscal Year are less than the amounts specified above, the City, promptly upon receipt of the annual audit for such Fiscal Year, must request an Airport Consultant to make its recommendations, if any, as to a revision of the City's rentals, rates, fees and other charges, its Maintenance and Operating Expenses or the method of operation of the Airport in order to satisfy as quickly as practicable the foregoing requirements.

(c) Copies of such request and the recommendations of the Airport Consultant shall be filed with the City Clerk.

(d) So long as the City substantially complies in a timely fashion with the recommendations of the Airport Consultant, the City will not be deemed to have defaulted in the performance of its duties under the Ordinance even if the resulting Net Revenues plus Other Available Funds are not sufficient to be in compliance with the covenant set forth above, so long as principal of and interest on Parity Bonds are paid when due; provided however, that this subsection (d) shall not apply if the City is required to satisfy the rate covenant contained in Section 5.03(a)(ii) and the amounts specified by Section 5.03(a)(ii) are less than 100% of the Debt Service Requirements for the Parity Bonds for such Fiscal Year.

Section 5.04 Special Funds

(a) The following special funds and accounts shall be established, maintained and accounted for as hereinafter provided so long as any of the Parity Bonds remain Outstanding. Such funds and accounts may also include any additional accounts or subaccounts as may from time to time be designated by the City, including specifically rebate accounts or subaccounts for accumulating rebatable arbitrage payable to the federal government, so long as they are not inconsistent with this Ordinance:

(i) Airport Revenue Fund ("Revenue Fund");

- (ii) Airport Parity Bond Debt Service Fund ("Debt Service Fund");
- (iii) Airport Parity Bond Debt Service Reserve Fund ("Debt Service Reserve Fund");
- (iv) Airport Subordinate Bond Debt Service Fund ("Subordinate Debt Fund");
- (v) Airport General Obligation Bond Debt Fund ("General Obligation Debt Fund");
- (vi) Airport Maintenance and Operating Reserve Fund ("Maintenance and Operating Reserve Fund");
- (vii) Airport Renewal and Replacement Fund ("Renewal and Replacement Fund");
- (viii) Airport Equipment and Capital Outlay Fund ("Equipment and Capital Outlay Fund");
- (ix) Airport Capital Improvement Fund ("Capital Improvement Fund"), including the "Operating Account" and "PFC Account";
- (x) Airport Construction Fund ("Construction Fund"), including the Capitalized Interest Account and the Project Account;
- (xi) Airport Restricted Land Sales Fund ("Restricted Land Sales Fund");
- (xii) Airport Passenger Facility Charge Fund ("PFC Fund"); and
- (xiii) Airport Passenger Facility Charge Debt Service Escrow Fund ("PFC Debt Service Escrow Fund").

(b) All Funds and Accounts established hereby shall be maintained as separate funds and accounts, respectively, on the books of the City and all amounts credited thereto shall be maintained in an official depository bank of the City.

(c) The Debt Service Fund, the Debt Service Reserve Fund, the PFC Debt Service Escrow Fund and the Capitalized Interest Account shall constitute trust funds which shall be held in trust for the owners of the Parity Bonds, and the proceeds of which (other than interest income thereon which may be transferred as herein provided) are pledged, as herein provided, to the payment of the Parity Bonds.

Section 5.05 Flow of Funds

- (a) Gross Revenues shall be deposited as received into the Revenue Fund.
- (b) Federal Payments not restricted for capital purposes, may be deposited by the City to the Revenue Fund, provided that, so long as such Federal Payments are excluded from the definition of Gross Revenues, such Federal Payments shall be applied solely to the payment of Maintenance and Operating Expenses or capital expenditures and never constitute Net Revenues.

(c) Other Available Funds may also be deposited to the Revenue Fund.

(d) Moneys from time to time credited to the Revenue Fund shall be applied as follows in the following order of priority:

(i) First, to provide for all payments of Maintenance and Operating Expenses required by this Ordinance and by any ordinance authorizing the issuance of additional Parity Bonds.

(ii) Second, to transfer all amounts to the Debt Service Fund required by this Ordinance and any ordinance authorizing the issuance of additional Parity Bonds.

(iii) Third, to transfer all amounts to the Debt Service Reserve Fund required by this Ordinance and any ordinance authorizing the issuance of additional Parity Bonds.

(iv) Fourth, to transfer all amounts necessary to provide for the payment of Subordinate Obligations, or to provide reserves for such payment, as may be required by any ordinance authorizing such Subordinate Obligations.

(v) Fifth, to transfer all amounts necessary to provide for the payment of principal of and interest on General Obligation Airport Bonds, as may be required by any ordinance authorizing such General Obligation Airport Bonds.

(vi) Sixth, to transfer all amounts to the Maintenance and Operating Reserve Fund required by this Ordinance and any other ordinance authorizing additional Parity Bonds.

(vii) Seventh, to transfer all amounts to the Renewal and Replacement Fund required by this Ordinance and any other ordinance authorizing Additional Parity Bonds or other Airport Obligations.

(viii) Eighth, to transfer all amounts to the Equipment and Capital Outlay Fund required by this Ordinance and any other ordinance authorizing Additional Parity Bonds or other Airport Obligations.

(ix) Ninth, the balance shall be transferred to the Capital Improvement Fund.

Section 5.06 Debt Service Fund

(a) On or before the last Business Day of each month so long as any Parity Bonds remain Outstanding, after making all required payments of Maintenance and Operating Expenses, there shall be transferred to the Debt Service Fund from the Revenue Fund the following amounts:

(i) Such amounts as shall be necessary so that the balance in the Debt Service Fund equals the Debt Service Requirements on all Parity Bonds accrued to the end of the next succeeding month; plus

(ii) An amount equal to ail fees charged or incurred in connection with paying agent and registrar services incurred in connection with Parity Bonds.

(b) Moneys credited to the Debt Service Fund shall be used solely for the purpose of paying principal (at maturity or prior redemption or to purchase Parity Bonds issued as term bonds in the open market to be credited against mandatory redemption requirements), interest and redemption premiums on the Parity Bonds, plus all bank charges and other costs and expenses relating to such payment, including those described in clause (a)(ii) above.

(c) On or before each principal and/or interest payment date on the Parity Bonds, the City shall transfer from the Debt Service Fund to the appropriate paying agent/registrar or other obligee amounts equal to the principal, interest and redemption premiums payable on the Parity Bonds on such date.

Section 5.07 Debt Service Reserve Fund

(a) The City shall establish and maintain as hereinafter provided a balance in the Debt Service Reserve Fund equal to the Debt Service Reserve Fund Requirement for the Parity Bonds.

(b) Each increase in the Debt Service Reserve Fund Requirement resulting from the issuance of additional Parity Bonds shall be funded at the time of issuance and delivery of such series of additional Parity Bonds by depositing to the credit of the Debt Service Reserve Fund either (A) proceeds of such additional Parity Bonds or other lawfully appropriated funds in not less than the amount which will be sufficient to fund fully the Debt Service Reserve Fund Requirement or (B) a Debt Service Reserve Fund Surety Bond sufficient to provide such portion of the Debt Service Reserve Fund Requirement.

(c) The City further expressly reserves the right to substitute at any time a Debt Service Reserve Fund Surety Bond for any funded amounts in the Debt Service Reserve Fund and to apply the funds thereby released, to the greatest extent permitted by law, to any of the purposes for which the related Parity Bonds were issued or to pay debt service on the related Airport Obligations.

(d) The City shall not employ any Debt Service Reserve Fund Surety Bond unless (i) the Debt Service Reserve Fund Surety Bond does not impose upon the City a repayment obligation (in the event the Debt Service Reserve Fund Surety Bond is drawn upon) greater than can be funded in twelve (12) monthly installments as provided in subsection (e) below, payable out of Net Revenues on a parity with the monthly deposits that are otherwise required to be made to the Debt Service Reserve Fund, and (ii) that any interest due in connection with such repayment obligation does not exceed the highest lawful rate of interest which may be paid by the City at the time of delivery of the Debt Service Reserve Fund Surety Bond.

(e) In any month in which the Debt Service Reserve Fund contains less than the Debt Service Reserve Fund Requirement for the Parity Bonds or in which the City is obligated to repay or reimburse any issuer of a Debt Service Reserve Fund Surety Bond (in the event such Debt Service Reserve Fund Surety Bond is drawn upon), then on or before the last Business Day of such month, after making all required transfers to the Debt Service Fund, there shall be transferred into the Debt Service Reserve Fund from the Revenue Fund, in approximately equal monthly installments, amounts sufficient to enable the City within a twelve (12) month period to reestablish in the Debt Service Reserve Fund the Debt Service Reserve Fund Requirement for the Parity Bonds and satisfy any repayment obligations to the issuer of any Debt Service Reserve Fund Surety Bond.

(f) After such amount has been accumulated in the Debt Service Reserve Fund and after satisfying any repayment obligation to any Debt Service Reserve Fund Surety Bond issuer and so long thereafter as such Fund contains such amount and all such repayment obligations have been satisfied, no further transfers shall be required to be made, and any excess amounts in such Fund shall be transferred to the Revenue Fund, however, if and whenever the balance in the Debt Service Reserve Fund is reduced below such amount or any Debt Service Reserve Fund Surety Bond repayment obligations arise, monthly transfers to such Fund shall be resumed and continued in such amounts as shall be required to restore the Debt Service Reserve Fund to such amount and to pay such reimbursement obligations within a twelve (12) month period.

(g) The Debt Service Reserve Fund shall be used to pay the principal of and interest on the Parity Bonds at any time when there is not sufficient money available in the Debt Service Fund for such purpose, and to make any payments required to satisfy repayment obligations to issuers of Debt Service Reserve Fund Surety Bonds, and may be used to make the final payments for the retirement or defeasance of Parity Bonds.

(h) Amounts in the Debt Service Reserve Fund in excess of the Debt Service Reserve Fund Requirement may be transferred to the other Funds created by this Ordinance in the order of priority established in Section 5.05.

Section 5.08 Funds and Accounts for Subordinate Obligations

On or before the last Business Day of each month, after making all required transfers to the Debt Service Fund and the Debt Service Reserve Fund, there shall be transferred into such funds and accounts as shall be established for such purpose pursuant to the ordinances authorizing the issuance or incurrence of any Subordinate Obligations, such amounts as shall be required pursuant to such ordinances to provide for the payment, or to provide reserves for the payment, of the Subordinate Obligations, including all principal and interest and costs of paying same.

Section 5.09 General Obligation Airport Bonds

On or before the last Business Day of each month, so long as any General Obligation Airport Bonds remain Outstanding after making all required transfers to the Debt Service Fund, the Debt Service Reserve Fund and any of the aforesaid funds and accounts established by ordinances authorizing the issuance of Subordinate Obligations, there shall be transferred from the Revenue Fund, to the extent amounts are available therein, such amounts as shall be necessary to provide for payment, when due, of principal of and interest on General Obligation Airport Bonds, as may be required by any ordinance authorizing such General Obligation Airport Bonds.

Section 5.10 Maintenance and Operating Reserve Fund

(a) The Maintenance and Operating Reserve Fund is funded at March 31, 2011 in the amount of \$_____ from funds of the Airport. The City shall budget and fund as hereinafter provided the Maintenance and Operating Reserve Fund in an amount at least equal to three (3) months budgeted Maintenance and Operating Expenses.

(b) On or before the last Business Day of each month, after making all required transfers to the Debt Service Fund, the Debt Service Reserve Fund, and any required transfers for

Subordinate Obligations or any General Obligation Airport Bonds as hereinabove provided, there shall be transferred from the Revenue Fund, to the extent amounts are available therein, to the Maintenance and Operating Reserve Fund an amount equal to one-twelfth (1/12th) of the deficiency, if any, therein as of the last day of the previous Fiscal Year until the required balance therein is established or reestablished.

(c) Amounts from time to time credited to the Maintenance and Operating Reserve Fund may be used at any time first, to pay for any Maintenance and Operating Expenses for which amounts are not otherwise available in the Revenue Fund; second, to pay any costs or expenses payable from the Renewal and Replacement Fund for which there are insufficient amounts in the Renewal and Replacement Fund; and third, to the extent any amounts are remaining, to be transferred to the Debt Service Fund, the Debt Service Reserve Fund or any similar fund created to provide for the payment, and reserves for the payment, of Subordinate Obligations and General Obligation Airport Bonds to the extent of any deficiency therein.

Section 5.11 Renewal and Replacement Fund

(a) The Renewal and Replacement Fund Requirement is \$_____ which is currently 100% financed from funds of the Airport. Following August 31, 20__, the City shall reexamine and may, upon the recommendation of an Airport Consultant, adjust such Renewal and Replacement Fund Requirement annually as a part of the budget process.

(b) On or before the last business day of each month, if the Renewal and Replacement Fund contains less than the Renewal and Replacement Fund Requirement, then after making all required transfers to the Debt Service Fund, the Debt Service Reserve Fund, and any required transfers for Subordinate Obligations or the General Obligation Airport Bonds as hereinabove provided, and to the Maintenance and Operating Reserve Fund, there shall be transferred from the Revenue Fund, to the extent funds are available therein, to the Renewal and Replacement Fund an amount equal to one-twelfth (1/12th) of the deficiency (being the amount by which the Renewal and Replacement Fund Requirement exceeded the unappropriated balance therein) as of the last day of the previous Fiscal Year and, at the discretion of the City, to pay directly from the Revenue Fund any other costs that could be paid from amounts on deposit in the Renewal and Replacement Fund. Such transfers shall be required to be made into the Renewal and Replacement Fund until such time as the Renewal and Replacement Fund Requirement has again been accumulated in the Renewal and Replacement Fund.

(c) Amounts from time to time credited to the Renewal and Replacement Fund may be used at any time first, to pay for any costs of replacing depreciable property and equipment of the Airport and making repairs, replacements or renovations of the Airport; second, to pay any Maintenance and Operating Expenses for which insufficient amounts are available in the Maintenance and Operating Reserve Fund; and third, to the extent any amounts are remaining, to be transferred to the Debt Service Fund, the Debt Service Reserve Fund or any similar fund created to provide for the payment, and reserves for the payment, of Subordinate Obligations and General Obligation Airport Bonds to the extent of any deficiency therein.

Section 5.12 Equipment and Capital Outlay Fund

On or before the last Business Day of each month there shall be transferred from the Revenue Fund to the Equipment and Capital Outlay Fund the amount expected to be expended for Equipment and Capital Outlays for such month.

Section 5.13 Capital Improvement Fund

(a) After making all payments and transfers hereinabove required, not less frequently than annually all amounts remaining in the Revenue Fund shall be transferred to the Capital Improvement Fund; provided, however, that no transfers shall be made to the Capital Improvement Fund unless all Funds created by this Ordinance contain the amounts then required to be on deposit therein. Unless otherwise provided by subsequent ordinance all such amounts shall be credited to the Operating Account of the Capital Improvement Fund.

(b) Amounts credited to the Capital Improvement Fund may be used only for lawful purposes relating to the Airport, including, without limitation, to pay for any capital expenditures or to pay costs of replacing any depreciable property or equipment of the Airport, to make any major or extraordinary repairs, replacements or renewals of the Airport, to acquire land or any interest therein, to pay costs necessary or incident to the closing or disposition of any facility of the Airport and, at the City's discretion, to be designated as Other Available Funds to be transferred to the Revenue Fund.

Section 5.14 Restricted Land Sales Fund

Amounts representing proceeds from the sale or other disposition of land, improvements or equipment constituting part of the Airport and revenues from such land, improvements or equipment which by the terms of any deed restrictions or agreements existing on the date of this Ordinance are required to be deposited to the Restricted Land Sales Fund shall be deposited thereto. Moneys deposited to such Fund may only be used in a manner consistent with the restrictions set forth in such deed restrictions or agreements.

Section 5.15 PFC Fund

PFC Revenues shall be deposited as received to the PFC Fund. In each Fiscal Year the City shall transfer monthly from the PFC Fund to the PFC Debt Service Escrow Fund PFC Revenues until there has been transferred during such Fiscal Year an amount equal to the principal and interest scheduled to come due during the ensuing Fiscal Year on the portion of the Bonds used to finance or refinance PFC-approved Project Costs. Any PFC Revenues not transferred pursuant to the provisions of this paragraph may be transferred, at the direction of the City, to the PFC Debt Service Escrow Fund or to the PFC Account in the Capital Improvement Fund to pay PFC-approved Project Costs.

Section 5.16 PFC Debt Service Escrow Fund

On or before the fifth day next preceding each Interest Payment Date, the City shall transfer from the PFC Debt Service Escrow Fund to the Debt Service Fund an amount equal to the principal and interest due on such Interest Payment Date determined by the City to be attributable to the portion of the Bonds used to finance or refinance PFC-approved Project Costs.

Section 5.17 Deficiencies in Funds or Accounts

If in any month there shall not be transferred into any Fund or Account maintained pursuant to Sections 5.06 through 5.13 of this Article the full amounts required herein, amounts equivalent to such deficiency shall be set apart and transferred to such Fund or Account from the first available and unallocated moneys in the Revenue Fund, and such transfer shall be in

addition to the amounts otherwise required to be transferred to such Fund or Account during any succeeding month or months.

Section 5.18 Construction Fund

(a) From the proceeds of each series of Parity Bonds there shall be deposited into the Capitalized Interest Account established in the Construction Fund for such series the amount of capitalized interest, if any, required by the ordinance authorizing issuance of such series of Parity Bonds. Such amounts may be applied to pay interest on such series of Parity Bonds as provided in such ordinance.

(b) From the proceeds of each series of Parity Bonds there shall be deposited into the applicable Project Account established in the Construction Fund such amounts as shall be provided in the ordinance authorizing such series of Parity Bonds. Such amounts may be applied to pay costs of improving, enlarging, extending and repairing the Airport or any project to become part of the Airport, to reimburse advances made by the City for such costs, to pay costs of issuance of Parity Bonds and to pay any other capital costs of the Airport as provided in the ordinance authorizing such series of Parity Bonds.

(c) Following completion of each project for which Parity Bonds have been issued, any amounts remaining in the Construction Fund shall be transferred at the discretion of the City to either the Debt Service Fund or to the Capital Improvement Fund for projects permitted by Texas Law for the use of such amounts and by the Code to be financed with the proceeds of tax exempt bonds.

Section 5.19 Investment of Funds: Transfer of Investment Income

(a) Money in all Funds and Accounts shall, at the option of the City, be invested in the manner provided by Texas law and the Investment Policy of the City; provided, that all such deposits and investments shall be made in such manner that the money required to be expended from any Fund will be available at the proper time or times.

(b) Money in such Funds and Accounts may be subject to further investment restrictions imposed from time to time by ordinances authorizing the issuance of Additional Parity Bonds and Subordinate Obligations.

(c) All such investments shall be valued no less frequently than once per Fiscal Year at market value, except that any direct obligations of the United States of America - State and Local Government Series shall be continuously valued at their par value or principal face amount.

(d) For purposes of maximizing investment returns, money in such Funds may be invested, together with money in other Funds or with other money of the City, in common investments or in a common pool of such investments maintained by the City at an official depository of the City or in any fund or investment vehicle permitted by Texas law and the Investment Policy of the City, which shall not be deemed to be a loss of the segregation of such money or Funds provided that safekeeping receipts, certificates of participation or other documents clearly evidencing the investment or investment pool in which such money is invested and the share thereof purchased with such money or owned by such Fund are held by or on behalf of each such Fund.

(e) If and to the extent necessary, such investments or participations therein shall be promptly sold to prevent any default.

(f) All interest and income derived from deposits and investments credited to any of the following funds and accounts shall be applied as follows, except as provided in subsection (g) below:

<u>Source of Interest or Income</u>	<u>Fund or Account to which such Interest or Income should be Credited</u>
Revenue Fund	Remains in Revenue Fund
Debt Service Fund	Remains in Debt Service Fund
Debt Service Reserve Fund	Remains in the Debt Service Reserve Fund until the Debt Service Reserve Fund Requirement is satisfied; thereafter to the Revenue Fund
Maintenance and Operating Reserve Fund	Remains in the Maintenance and Operating Reserve Fund until fully funded; thereafter to the Revenue Fund
Renewal and Replacement Fund	Remains in the Renewal and Replacement Fund until Renewal and Replacement Fund Requirement is met; thereafter to the Revenue Fund
Capital Improvement Fund	Remains in the appropriate Account within the Capital Improvement Fund
Construction Fund	Remains in the appropriate Account within the Construction Fund
Equipment and Capital Outlay Fund	Revenue Fund
Restricted Land Sales Fund	Remains in the Restricted Land Sales Fund
PFC Fund	Remains in the PFC Fund
PFC Debt Service Escrow Fund	PFC Fund

(g) Notwithstanding anything to the contrary contained herein, any interest and income derived from deposits and investments of any amounts credited to any fund or account may be (i) transferred into any rebate account or subaccount and (ii) paid to the federal government if in the opinion of nationally recognized bond counsel such payment is required to comply with any covenant contained herein or required in order to prevent interest on any bonds payable from Net Revenues from being includable within the gross income of the Owners thereof for federal income tax purposes.

Section 5.20 Security for Uninvested Funds

So long as any Parity Bonds remain Outstanding, all uninvested moneys shall be secured as provided by Texas law.

ARTICLE VI

ADDITIONAL BONDS

Section 6.01 Additional Parity Bonds

The City reserves the right to issue, for any lawful Airport purpose, one or more installments of Additional Parity Bonds payable from and secured on a parity with the Bonds; provided, however, that no such Additional Parity Bonds shall be issued unless:

(a) No Default. The Mayor and the Director of Aviation certify that, upon the issuance of such Additional Parity Bonds, the City will not be in default under any term or provision of any Parity Bonds then Outstanding or any ordinance pursuant to which any of such Parity Bonds were issued.

(b) Proper Fund Balances. The City's Chief Financial Officer, or such other person appointed to act in such capacity, shall certify that, upon the issuance of such Additional Parity Bonds, the Debt Service Reserve Fund will contain the applicable Debt Service Reserve Fund Requirement or so much thereof as is required to be funded at such time.

(c) Projected Coverage for Additional Parity Bonds. An Airport Consultant provides a written report setting forth projections which indicate that the estimated Net Revenues, together with the estimated Other Available Funds, of the Airport for each of three (3) consecutive Fiscal Years beginning in the earlier of

(i) the first Fiscal Year following the estimated date of completion and initial use of all revenue producing facilities to be financed with Additional Parity Bonds, based upon a certified written estimated completion date by the consulting engineer for such facility or facilities, or

(ii) the first Fiscal Year in which the City will have scheduled payments of interest on or principal of the Additional Parity Bonds to be issued for the payment of which provision has not been made as indicated in the report of such Airport Consultant from proceeds of such Additional Parity Bonds, investment income thereon or from other appropriated sources (other than Net Revenues),

are equal to at least 125% of the Debt Service Requirements on all Parity Bonds scheduled to occur during each such respective Fiscal Year after taking into consideration the additional Debt Service Requirements for the Additional Parity Bonds to be issued.

(d) Alternate Coverage for Additional Parity Bonds. In lieu of the certification described in (c) above, the City's Chief Financial Officer or such other person appointed to act in such capacity may provide a certificate showing that, for either the City's most recent complete Fiscal Year or for any consecutive 12 out of the most recent 18 months, the Net Revenues, together with Other Available Funds, of the Airport were equal to at least 125% of the average annual Debt Service Requirements on all Parity Bonds scheduled to occur in the then current or

any future Fiscal Year after taking into consideration the issuance of the Additional Parity Bonds proposed to be issued.

(e) Refunding Bonds. If Additional Parity Bonds are being issued for the purpose of refunding all or a portion of the previously issued Parity Bonds which are then Outstanding, neither of the certifications described in (c) or (d) above are required so long as the maximum annual Debt Service Requirements in any Fiscal Year after the issuance of such Additional Parity Bonds will not exceed the maximum annual Debt Service Requirements in any Fiscal Year prior to the issuance of Additional Parity Bonds and total debt service has been reduced

(f) Bond Ordinance Requirements. Provision is made in the bond ordinance authorizing the Additional Parity Bonds proposed to be issued for (1) additional payments into the Debt Service Fund sufficient to provide for any principal and interest requirements resulting from the issuance of the Additional Parity Bonds including, in the event that interest on the additional series of Parity Bonds is capitalized and/or to be paid from investment earnings, a requirement for the transfer from the capitalized interest fund or account and/or from the construction fund to the Debt Service Fund of amounts fully sufficient to pay interest on such Additional Parity Bonds during the period specified in the ordinance, and (2) satisfaction of the Debt Service Reserve Fund Requirement by not later than the date required by this Ordinance or any other ordinance authorizing Additional Parity Bonds.

(g) Engineer's Certificate. The City's Engineer or an independent engineer designated by the City shall certify that the estimated costs of the project to be financed with the Additional Parity Bonds are sufficient, along with other funds available and appropriated therefor to pay the costs necessary to complete the proposed project or projects.

Section 6.02 Completion Bonds

(a) In addition to the issuance of Additional Parity Bonds that meet the requirements of paragraphs (c) and (d) immediately above, the City reserves the right to issue one or more series of Completion Bonds in the principal amount not exceeding fifteen percent (15%) of the aggregate principal amount of Parity Bonds initially issued to finance a Project to pay the cost of completing any Project for which Parity Bonds have been issued.

(b) Prior to the issuance of any series of Completion Bonds the City must provide, in addition to all of the applicable certificates required by Section 6.01, excluding paragraphs (c) and (d) thereof, the following documents:

(i) a certificate of the consulting engineer engaged by the City to design the Project for which the Completion Bonds are to be issued stating that such Project has not materially changed in scope since the issuance of the most recent series of Parity Bonds for such purpose (except as permitted in the applicable ordinance authorizing such Parity Bonds) and setting forth the aggregate cost of the Project which, in the opinion of such consulting engineer, has been or will be incurred; and

(ii) a certificate of the Comptroller

(A) stating that all amounts allocated to pay costs of the Project from the proceeds of the most recent series of Parity Bonds issued in connection with

the Project for which the Completion Bonds are being issued were used or are still available to be used to pay costs of such Project;

(B) containing a calculation of the amount by which the aggregate cost of that Project (furnished in the consulting engineer's certificate described above) exceeds the sum of the costs of the Project paid to such date plus the moneys available at such date within any construction fund or other like account applicable to the Project plus any other moneys which the Comptroller has determined to be available to pay such costs in any other fund; and

(C) certifying that, in the opinion of the Comptroller, the issuance of the Completion Bonds is necessary to provide funds for the completion of the Project.

(c) For purposes of this Section, the term "Project" shall mean any other Airport facility or project which shall be defined as a Project in any ordinance authorizing the issuance of Additional Parity Bonds for the purpose of financing such Project.

(d) Any such ordinance may contain such further provisions as the City shall deem appropriate with regard to the use, completion, modification or abandonment of such Project.

Section 6.03 Subordinate Obligations

(a) The City reserves the right to issue or incur, for any lawful Airport purpose, bonds, notes or other obligations, including reimbursement obligations and obligations pursuant to credit agreements and interest rate hedges, secured in whole or in part by liens on the Net Revenues that are junior and subordinate to the liens on Net Revenues securing payment of the Parity Bonds.

(b) Although herein referred to as "Subordinate Obligations," such bonds, notes or other obligations may bear any name or designation provided by ordinance authorizing their issuance or incurrence.

(c) Such Subordinate Obligations may be further secured by any other source of payment lawfully available for such purposes.

(d) Unless expressly provided herein to the contrary, no default with respect to a Subordinate Obligation shall constitute a default hereunder.

Section 6.04 Special Facilities Bonds

(a) The City reserves the right to issue from time to time, in one or more series, Special Facilities Bonds as herein provided to finance and refinance the cost of any Special Facilities, including all reserves required therefor, all related costs of issuance and other amounts reasonably relating thereto, provided that such Special Facilities Bonds shall be payable solely from payments by lessees under Special Facilities Leases and/or other security not provided by the City.

(b) In no event shall Gross Revenues or any other amounts held in any other fund or account maintained by the City as security for the Parity Bonds or for the construction,

operation, maintenance or repair of the Airport be pledged to the payment of Special Facilities Bonds.

(c) Unless expressly provided herein to the contrary, no default with respect to a Special Facilities Bond shall constitute a default hereunder.

Section 6.05 Credit Agreements

To the fullest extent permitted by applicable law and the investment policy of the City, the City expressly reserves the right to purchase and/or enter into, in connection with any Parity Bonds (including in connection with the Bonds) or Subordinate Obligations, credit agreements, insurance contracts, letters of credit, lines of credit, standby bond purchase agreements, loan agreements, purchase or sale agreements, interest rate swap agreements, interest rate caps, collars or other hedging agreements, provided that any reimbursement, repayment or payment obligation incurred by the City in connection therewith can only be secured by and payable from Net Revenues and the various funds and accounts established or referred to in this Ordinance to the extent permitted by this Ordinance and any of the City's other ordinances authorizing Parity Bonds and Subordinate Obligations.

ARTICLE VII

COVENANTS AND PROVISIONS RELATING TO ALL PARITY BONDS

Section 7.01 Punctual Payment of Parity Bonds

The City covenants that it will punctually pay or cause to be paid the interest on and principal of all Parity Bonds according to the terms thereof and will faithfully do and perform, and at all times fully observe, any and all covenants, undertakings, stipulations and provisions contained in this Ordinance and in any other ordinance authorizing the issuance of such Parity Bonds.

Section 7.02 Maintenance of Airport

Except as provided in Section 7.04 hereof, the City covenants that it will at all times maintain and operate the Airport, or within the limits of its authority cause the same to be maintained and operated, in good and serviceable condition.

Section 7.03 Limitation on City Charges for Maintenance and Operating Expenses

(a) The City covenants that it will not charge the Airport any amounts for overhead expenses relating to the administration, maintenance and operation of the Airport except to the extent that such amounts are reasonably allocable to the Airport based upon a stated policy of allocation, reasonably applied to the Airport.

(b) All such charges imposed by the City upon the Airport shall be consistent with all applicable federal laws, regulations and other requirements applicable to the Airport or imposed upon the Airport in connection with the acceptance by the Airport of any federal grants or aid.

Section 7.04 Sale or Encumbrance of Airport

(a) Except for the use of the Airport or services pertaining thereto in the normal course of business, the City covenants that neither all nor a substantial part of the Airport shall be sold, leased, mortgaged, pledged, encumbered, alienated, or otherwise disposed of until all Parity Bonds have been paid in full, or unless provision has been made therefor, and the City shall not dispose of its title to the Airport or to any useful part thereof, including, without limitation, any property necessary to the operation and use of the Airport, except for the execution of leases, licenses, easements, or other agreements in connection with the operation of the Airport by the City, or in connection with any Special Facilities thereat, except for any pledges of and liens on revenues derived from the operation and use of the Airport, or any part thereof, or any Special Facilities pertaining thereto, for the payment of Parity Bonds, Special Facilities Bonds and any other obligations pertaining to the Airport, and except as otherwise provided in the next two paragraphs.

(b) The City may sell, exchange, lease, or otherwise dispose of, or exclude from the Airport, any property constituting a part of the Airport which the Director of Aviation certifies (i) to be no longer useful in the construction or operation of the Airport, or (ii) to be no longer necessary for the efficient operation of the Airport, or (iii) to have been replaced by other property of at least equal value.

(c) Except as provided in Section 5.14, the net proceeds of the sale or disposition of any Airport property (or the fair market value of any property so excluded) pursuant to this Section shall be used for the purpose of replacing properties at the Airport, shall be paid into the Capital Improvement Fund or the Restricted Land Sales Fund or shall be applied to retire or pay principal of or interest on Airport Obligations.

(d) Nothing herein prevents any transfer of all or a substantial part of the Airport to another body corporate and politic (including, but not necessarily limited to a joint action agency or an airport authority) which assumes the City's obligations under this Ordinance and in any ordinance authorizing the issuance of Parity Bonds, wholly or in part, if, (i) in the written opinion of an Airport Consultant, the ability to meet the rate covenant and other covenants under this Ordinance and in any ordinance authorizing the issuance of Parity Bonds, are not materially and adversely affected, (ii) in the written opinion of nationally recognized bond counsel, such transfer and assumption will not cause the interest on any Outstanding Parity Bonds that were issued as 'tax-exempt bonds' within the meaning of the regulations promulgated under the Code (as hereinafter defined) to be includable in gross income of the Owners thereof for federal income tax purposes, (iii) in the written opinion of counsel for the City, such transfer and assumption will not cause the reversion of any of the real property comprising a part of the Airport to the United States and (iv) either (x) the bond insurer, if any, consents to such transfer or (y) any nationally recognized statistical rating organization then rating the Bonds confirms that the underlying rating on the Bonds will not be adversely affected as a result of such transfer.

(e) In such event, following such transfer and assumption, all references to the City, any City officials, City ordinances, City budgetary procedures and any other officials, actions, powers or characteristics of the City shall be deemed references to the transferee entity and comparable officials, actions, powers or characteristics of such entity.

(f) In the event of any such transfer and assumption, nothing herein shall prevent the retention by the City of any facility of the Airport if, in the written opinion of an Airport

Consultant, such retention will not materially and adversely affect nor unreasonably restrict the transferee entity's ability to comply with the requirements of the rate covenant and the other covenants of this Ordinance and in any ordinance authorizing the issuance of Parity Bonds.

Section 7.05 Acquisition or Assumptions of New Property

The City covenants and agrees that it will not acquire by purchase, gift, deed or otherwise any lands or properties to be or become part of the Airport which in the reasonable judgment of the Director of Aviation could materially and adversely affect the financial operations of the Airport or the ability of the City to comply with the other covenants hereof, without first obtaining a written report of an Airport Consultant that the City's ability to maintain the rate covenant and the other covenants under this Ordinance and any ordinance authorizing the issuance of Parity Bonds, are not materially and adversely affected.

Section 7.06 Insurance

(a) The City covenants and agrees that it will keep the Airport insured with insurers of good standing against risks, accidents or casualties against which and to the extent customarily insured against by political subdivisions of the State of Texas operating similar properties, to the extent that such insurance is available; provided, however, that if any such insurance is not commercially available or not available on more favorable economic terms, the City may elect to be self insured in whole or in part against the risk or loss that would otherwise be covered by such insurance, in which case the City will establish reserves for such risk or loss in amounts the City and, except for liability coverage and motor vehicle property and liability coverage, an independent insurance consultant, determine to be appropriate.

(b) All net proceeds of property or casualty insurance shall be applied to repair or replace the insured property that is damaged or destroyed or to make other capital improvements to the Airport or to redeem Airport Obligations.

(c) Proceeds of business interruption insurance may be credited to the Revenue Fund.

Section 7.07 Accounts, Records, and Audits

(a) The City covenants and agrees that it will maintain a proper and complete system of records and accounts pertaining to the Gross Revenues and the operation of the Airport in which full, true and proper entries will be made of all dealings, transactions, business and affairs which in any way affect or pertain to the Gross Revenues and the Airport.

(b) The City shall, after the close of each of its Fiscal Years, cause an audit report of such records and accounts to be prepared by an independent certified public accountant or independent firm of certified public accountants, which may be part of an overall audit report of the City and/or other of its enterprise funds.

(c) All expenses of obtaining such reports shall constitute Maintenance and Operating Expenses of the Airport.

Section 7.08 No Competing Facilities

The City covenants and agrees not to construct, operate or lease any airport, airport navigation or aircraft maintenance facilities or similar facilities, the use or occupation of which

would, in the opinion of an Airport Consultant, result in a reduction of Net Revenues below the minimum required to be maintained by Section 5.03.

Section 7.09 Covenants Regarding PFC Revenues

(a) The City covenants that it will comply with the PFC Act, the PFC Regulations, including the assurances thereunder and the terms and conditions of the PFC approval. The City will not take any action or omit to take any action with respect to PFC Revenues, approved PFC projects, or otherwise if such action or omission would, pursuant to the PFC Regulations, cause the termination of the City's authority to impose PFCs or prevent the use of the PFC Revenue as contemplated hereunder.

(b) The City covenants that it will not impose any noise restrictions which does not comply with the Airport Noise and Capacity Act of 1990, as amended (the "Noise Act"). In the case of a dispute with the FAA, the City will suspend any restriction until the legality of the restriction is determined and will withdraw any restriction if necessary to avoid a termination of the right to impose a Passenger Facility Charge.

(c) The City covenants that it will impose the Passenger Facility Charge to the full extent authorized.

(d) The City covenants that it will increase PFC Revenues by the appropriate amount up to fifteen (15%) percent as provided under Section 158.37(a) of the PFC Regulations, if needed and eligible to be used to pay the principal, redemption premiums, if any, or interest on any Bonds.

(e) The City covenants that it will, pursuant to Section 158.37(b) of the PFC Regulations, seek an increase in total PFC Revenues beyond that which it may unilaterally implement, if needed and eligible to be used to pay the principal amount of redemption premium, if any, or interest on any outstanding Bonds.

(f) The City covenants that it will take all action reasonably necessary to cause all collecting carriers to collect and remit to the City all PFC Revenues required by the PFC Regulations to be so collected and remitted to the City.

(g) In the event that the FAA begins proceedings to terminate the City's authority to impose a Passenger Facility Charge, pursuant to Section 158.85 of the PFC Regulations, through a notice of proposed termination in the Federal Register, the City will use its best efforts to avoid termination by (1) complying with FAA-prescribed corrective action contained in the notice; (2) contesting the FAA's proposed termination action; (3) reaching an accommodation with the FAA; or (4) any combination of the foregoing.

Section 7.10 Pledge and Encumbrance of Revenues

(a) The City covenants and represents that it has the lawful power to create a lien on and to pledge the Net Revenues to secure the payment of the Parity Bonds and has lawfully exercised such power under the Constitution and laws of the State of Texas.

(b) The City further covenants and represents that, other than to the payment of Maintenance and Operating Expenses and the Parity Bonds, the Gross Revenues are not and will not be made subject to any other lien, pledge or encumbrance to secure the payment of any debt

or obligation of the City, unless such lien, pledge or encumbrance is junior and subordinate to the lien and pledge securing payment of the Parity Bonds.

Section 7.11 Contract with Bondholders

This Ordinance shall constitute a contract between the City and the Owners of the Parity Bonds from time to time outstanding and this Ordinance shall be and remain irrevocable until the Parity Bonds and the interest thereon shall be fully paid or discharged or provision therefor shall have been made as provided herein.

Section 7.12 Legal Holidays

In any case where the date of maturity of interest on or principal of the Parity Bonds or the date fixed for redemption of any Parity Bonds shall be a day on which a paying agent for the Parity Bonds is authorized by law to close, then payment of interest or principal need not be made on such date but may be made on the next succeeding day on which such paying agent is not authorized by law to close with the same force and effect as if made on the date of maturity or the date fixed for redemption and no interest shall accrue for the period from the date of maturity or redemption to the date of actual payment.

ARTICLE VIII

DEFAULT AND REMEDIES

Section 8.01 Events of Default

Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Parity Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the City contained herein, which default materially and adversely affects the rights of the Owners, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after written notice of such default is given by any Owner to the City,

(iii) all notices provided to be given under this Section 8.01 shall be given by certified or registered mail, return receipt requested, postage fully prepaid, addressed to the proper party at the following addresses:

City Clerk
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901

or

Director of Aviation
El Paso International Airport

6701 Convair Road
El Paso, Texas 79925-1091

Section 8.02 Remedies for Default

(a) Upon the happening of any Event of Default, any Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the City for the purpose of protecting and enforcing the rights of the Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Owners hereunder or any combination of such remedies.

(b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Owners of Parity Bonds then outstanding.

Section 8.03 Remedies Not Exclusive

(a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Parity Bonds or now or hereafter existing at law or in equity, provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Parity Bonds shall not be available as a remedy under this Ordinance.

(b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(c) By accepting the delivery of a Parity Bond authorized under this Ordinance, such Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers or employees of the City or members of the City Council.

ARTICLE IX

DISCHARGE

Section 9.01 Discharge by Payment

When all or any portion of the Parity Bonds have been paid in full as to principal and as to interest, or when all or any portion of the Parity Bonds have become due and payable, whether at maturity or otherwise, and the City shall have provided for the payment of the whole amount due or to become due on such Parity Bonds then outstanding, including all interest that has accrued thereon or that may accrue to the date of maturity, and any premium due or that may become due at maturity, by depositing with the Paying Agent/Registrar, for payment of the principal of the outstanding Parity Bonds and the interest accrued thereon, the entire amount due or to become due thereon, and the City shall also have paid or caused to be paid all sums payable under this Ordinance by the City with respect to such Parity Bonds, including the compensation

due or to become due the Paying Agent/Registrar, then the Paying Agent/Registrar, upon receipt of a letter of instructions from the City requesting the same, shall discharge and release the lien of this Ordinance as it relates to such Bonds and execute and deliver to the City such releases or other instruments as shall be requisite to release the lien hereof.

Section 9.02 Discharge by Deposit

(a) The City may discharge its obligation to the Owners of any or all of the Parity Bonds to pay principal, interest and redemption premium (if any) thereon, or any portion thereof, by depositing with the Paying Agent/Registrar cash in an amount equal to the principal, redemption premium; if any, of such Parity Bonds plus interest thereon to the date of maturity or redemption, or any portion thereof to be discharged, or by depositing either with the Paying Agent/Registrar or with any national banking association with capital and surplus in excess of \$25,000,000, pursuant to an escrow or trust agreement to which the Paying Agent/Registrar is a party, cash and/or direct obligations of, or obligations the principal and interest of which are guaranteed by the United States of America in principal amounts and maturities and bearing interest at rates sufficient to provide for the timely payment of the principal amount and redemption premium, if any, of such Parity Bonds plus interest thereon to the date of maturity or redemption or any portion thereof to be discharged.

(b) Upon such deposit, such Parity Bonds, or any portion of principal of or interest thereon, shall no longer be regarded to be Outstanding or unpaid.

(c) In case any Parity Bonds are to be redeemed on any date prior to their maturity, the City shall give to the Paying Agent/Registrar irrevocable instructions to give notice of redemption of Parity Bonds to be so redeemed in the manner required in the ordinance or ordinances authorizing such Parity Bonds.

(d) For any Parity Bonds not to be redeemed or paid in full within the next succeeding year from the date of deposit provided for in this Section 9.02, the City shall give the Paying Agent/Registrar in form satisfactory to it irrevocable instructions to mail, by certified mail, a notice to the Registered Owner of each such Parity Bond that the deposit required by this Section 9.02 has been made and that said Parity Bonds are deemed paid in accordance with this Section and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal amount and redemption premium if any on such Parity Bonds plus interest thereon to the date of maturity or redemption.

Any failure, error or delay in giving such notices shall not affect the defeasance of such Parity Bonds.

ARTICLE X

PAYING AGENT/REGISTRAR

Section 10.01 Appointment of Initial Paying Agent/Registrar

(a) The City hereby appoints Wells Fargo Bank, National Association, a national banking association organized under the laws of the United States of America authorized to do business in the State of Texas, as the initial Paying Agent/Registrar for the Bonds.

(b) The Pricing Officer is authorized and directed to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the City and the Paying Agent/Registrar substantially in the form attached to the Pricing Certificate.

Section 10.02 Qualifications of Paying Agent/Registrar

Each Paying Agent/Registrar shall be a commercial bank, a national banking association trust company organized under the laws of the State of Texas, or other entity duly qualified and legally authorized to serve as, and perform the duties and services of, paying agent and registrar for the Bonds.

Section 10.03 Maintaining Paying Agent/Registrar

(a) At all times while any Bonds are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 10.02 of this Ordinance.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement.

Section 10.04 Termination of Paying Agent/Registrar

The City reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated a certified copy of a resolution of the City (i) giving notice of the termination of the appointment, stating the effective date of such termination, and (ii) appointing a successor Paying Agent/ Registrar.

Section 10.05 Notice of Change of Paying Agent/Registrar to Owners

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by first class United States mail, postage prepaid, at the address in the Register, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 10.06 Agreement of Paying Agent/Registrar to Perform Duties and Functions

By accepting the appointment as Paying Agent/Registrar, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed hereby.

Section 10.07 Delivery of Records to Successor

If a Paying Agent/Registrar is replaced, such Paying Agent/ Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Bonds to the successor Paying Agent/Registrar.

Section 10.08 Trust Funds

All money transferred to the Paying Agent/Registrar under this Ordinance (except sums representing Registrar's/Paying Agent's fees) shall be held in trust for the benefit of the City, shall be the property of the City, and shall be disbursed in accordance with this Ordinance.

Section 10.09 Bonds Presented

Subject to the provisions of this Ordinance, all matured Parity Bonds presented to the Paying Agent/Registrar for payment shall be paid without the necessity of further instructions from the City. Such Parity Bonds shall be canceled as provided herein.

Section 10.10 Paying Agent/Registrar May Own Parity Bonds

The Paying Agent/Registrar in its individual or any other capacity, may become the Owner or pledgee of Parity Bonds with the same rights it would have if it were not the Paying Agent/Registrar.

ARTICLE XI

ALTERATION OF RIGHTS AND DUTIES; AMENDMENT OF ORDINANCE

Section 11.01 Alteration of Rights and Duties

The rights, duties, and obligations of the City and the Owners of the Parity Bonds are subject in all respects to all applicable federal and state laws including, without limitation, the provisions of federal law regarding the composition of indebtedness of political subdivisions, as the same now exist or may hereafter be amended.

Section 11.02 Amendment of Ordinance Without Consent

The City may, without the consent of or notice to any of the Owners of the Parity Bonds, amend this Ordinance for any one or more of the following purposes:

(a) to cure any ambiguity, defect, omission or inconsistent provision in this Ordinance or in the Parity Bonds; or to comply with any applicable provision of law or regulation of Federal agencies; provided, however, that such action shall not adversely affect the interests of the Owners of the Parity Bonds;

(b) to change the terms or provisions of this Ordinance to the extent necessary to prevent the interest on the Parity Bonds from being includable within the gross income of the Owners thereof for federal income tax purposes or to conform to the requirements of federal securities law or other applicable law;

(c) to grant to or confer upon the Owners of the Parity Bonds any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners of the Parity Bonds;

(d) to add to the covenants and agreements of the City contained in this Ordinance other covenants and agreements of, or conditions or restrictions upon, the City or to surrender or eliminate any right or power reserved to or conferred upon the City in this Ordinance;

(e) to amend any provisions hereof relating to the issuance of Subordinate Obligations, or the incurrence of and security for reimbursement obligations so long as to do so does not cause any reduction in any rating assigned to the Parity Bonds by any major municipal securities evaluation service then rating the Parity Bonds;

(f) to subject to the lien and pledge of this Ordinance additional Net Revenues which may include revenues, properties or other collateral;

(g) to amend the undertaking contained in Article XIV to the extent permitted therein; and

(h) to authorize the issuance of Airport Obligations and to prescribe the terms, forms and details thereof not inconsistent with this Ordinance and, in connection therewith, to create such additional funds and accounts, and to effect such amendments of this Ordinance as may be necessary for such issuance, provided that no such additional supplemental ordinance shall be inconsistent with the limitations set forth in Section 11.03.

Section 11.03 Amendments of Ordinance Requiring Consent

The City may at any time adopt one or more ordinances amending, modifying, adding to or eliminating any of the provisions of this Ordinance but, if such amendment is not of the character described in Section 11.02 hereof, only with the consent given in accordance with Section 11.04 hereof of the Owner or Owners of not less than 66-2/3% of the aggregate unpaid principal amount of the Parity Bonds then Outstanding and affected by such amendment, modification, addition, or elimination; provided, however, that nothing in this Section shall permit (a) an extension of the maturity of the principal of or interest on any Parity Bond issued hereunder, or (b) a reduction in the principal amount of any Parity Bond or the rate of interest on any Parity Bond, or (c) a privilege or priority of any Parity Bond or Parity Bonds over any other Parity Bond or Parity Bonds, or (d) a reduction in the percentage of aggregate principal amount of the Parity Bonds required for consent to such amendment without the consent of the Owner of each such Parity Bond effected thereby.

Section 11.04 Consent of Owners

(a) Any consent required by Section 11.03 hereof by any Owner shall be in writing, may be in any number of concurrent writings of similar tenor, and may be signed by such Owner or his duly authorized attorney.

(b) Proof of the execution of any such consent or of the writing appointing any such attorney and of the ownership of Parity Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Ordinance, and shall be conclusive in favor of the City with regard to any action taken, suffered or omitted to be taken by the City under such instrument, namely:

(i) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(ii) The fact of the ownership by any person of any Parity Bond and the date of the ownership of same may be proved by a certificate executed by an appropriate officer of the Paying Agent/Registrar, stating that at the date thereof such Parity Bond was registered in the name of such party in the Register.

(c) In lieu of the foregoing the City may accept such other proofs of the foregoing as it shall deem appropriate.

(d) Consents required pursuant to Section 11.03 shall be valid only if given following the giving of notice by or on behalf of the City requesting such consent and setting forth the substance of the amendment of this Ordinance in respect of which such consent is sought and stating that copies thereof are available at the office of the City Clerk for inspection.

(e) Such notice shall be given by certified mail to each Registered Owner of the Parity Bonds affected at the address shown on the Register.

Section 11.05 Revocation of Consent

(a) Any consent by any Owner of a Parity Bond pursuant to the provisions of this Article shall be irrevocable for a period of eighteen (18) months from the date of mailing of the notice provided for in this Article, and shall be conclusive and binding upon all future Owners of the same Parity Bond and any Parity Bond delivered on transfer thereof or in exchange for or replacement thereof during such period.

(b) Such consent may be revoked at any time after eighteen (18) months from the date of the first mailing of such notice by the Owner who gave such consent or by a successor in title, by filing notice thereof with the Paying Agent/Registrar, but such revocation shall not be effective if the Owners of a majority in aggregate principal amount of the Parity Bonds Outstanding as in this Ordinance defined have, prior to the attempted revocation, consented to and approved the amendment.

ARTICLE XII

PROVISIONS CONCERNING SALE AND DELIVERY OF BONDS; OFFICIAL STATEMENT

Section 12.01 Sale of Bonds – Official Statement

(a) The Bonds authorized by this Ordinance are to be sold by the City to the Underwriter in accordance with a bond purchase agreement (the "Purchase Contract"), the terms and provisions of which Purchase Contract are to be determined by the Pricing Officer, in accordance with Section 2.02 hereof. The Pricing Officer is hereby authorized and directed to execute said Purchase Contract for and on behalf of the City and as the act and deed of this City Council.

The Mayor and City Clerk of the City are further authorized and directed to manually or electronically execute and deliver for and on behalf of the City copies of a Preliminary Official Statement and Official Statement, prepared in connection with the offering of the Bonds by the Underwriter, in final form as may be required by the Underwriter, and such final Official Statement in the form and content as approved by the Pricing Officer or as manually or electronically executed by said officials shall be deemed to be approved by the City Council of the City and constitute the Official Statement authorized for distribution and use by the Underwriter.

(b) The City Manager, the Deputy City Manager for Finance and Management Support Services, the City's Chief Financial Officer, the Director of Aviation, or any other officer of the City are each authorized to execute such documents, certificates and receipts, and to make such elections with respect to the tax-exempt status of the Bonds, as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the provisions and terms of this Ordinance and the Pricing Certificate.

(c) The obligation of the Underwriter to accept delivery of the Bonds is subject to the Underwriter being furnished with the final, approving opinion of Fulbright & Jaworski L.L.P., Bond Counsel for the City, which opinion shall be dated and delivered the Closing Date. The engagement of such firm as Bond Counsel to the City in connection with the issuance of the Bonds is hereby approved and confirmed.

Section 12.02 TEFRA Approval

To the extent required under applicable Federal Law, the Director of Aviation or the Assistant Director of Aviation is hereby appointed to be the designated Hearing Officer for a public hearing relating to the Bonds to be held for purposes of satisfying Section 147 of the Code, if applicable, and the Mayor is hereby authorized to approve the issuance of the Bonds and the use of the proceeds thereof, as specified in the Pricing Certificate, for the purpose of satisfying the requirements of Section 147 of the Code.

ARTICLE XIII

PROVISIONS CONCERNING FEDERAL INCOME TAX EXCLUSION

Section 13.01 Tax Exemption

(a) General Tax Covenant. The City intends that the interest on the Bonds shall be excludable from gross income for purposes of federal income taxation pursuant to Sections 103, 141, 142 and 147 through 150 of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations. The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that if taken or omitted, respectively, would cause the interest on the Bonds to be includable in gross income, as defined in Section 61 of the Code, of the holders thereof for purposes of federal income taxation. In particular, the City covenants and agrees to comply with each requirement of this Section; provided, however, that the City shall not be required to comply with any particular requirement of this Section if the City has received an opinion of nationally recognized bond counsel ("Counsel's Opinion") that such noncompliance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds or if the City has received a Counsel's Opinion that compliance with some other requirement set forth in this Section will satisfy the applicable requirements of the Code, in which case compliance with such other requirement specified in such Counsel's Opinion shall constitute compliance with the corresponding requirement specified in this Section.

(b) Use of Proceeds. The use of the Net Proceeds of the Bonds (as hereinafter defined) at all times will satisfy the following requirements:

(i) The property to be financed or refinanced with the Net Proceeds of the Bonds (for purposes of this Section, the "Project") will include at all times that the Bonds

are outstanding, only facilities that are an "airport" (within the meaning of Section 142 of the Code) and property that is "functionally related and subordinate" thereto (within the meaning of Sections 1.103-8(a)(3) and 1.103-8(e)(2)(H) of the Regulations). For purposes of this requirement a storage or training facility shall be an "airport" only if such facility is directly related to the airport. In addition, an "office" shall be considered a "airport" only if such office is located on the premises of an airport facility and all but a de minimis amount of the functions to be performed at such office are directly related to the day-to-day operations at such airport facility.

(ii) All of the property financed with the Net Proceeds of the Bonds has been and will be owned by the City at all times. Each lease, management contract or similar operating or use agreement entered into with any person with respect to all or any portion of the Project will comply with the requirements of Section 142(b)(1)(B)(i)-(iii) of the Code and the applicable regulations thereunder.

(iii) The Project has not included and will not include at any time (i) any lodging facilities, (ii) any retail facilities (including food and beverage facilities) in excess of the size necessary to serve passengers and employees at the airport, (iii) any retail facility (other than parking) for passengers or the general public located outside of an airport terminal, (iv) any office building for individuals who are not employees of the City, or (v) any industrial park or manufacturing facility.

(iv) The Project has not included and will not include at any time any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(v) No portion of the Net Proceeds of the Bonds has been or will be used for the acquisition of any existing property or an interest therein unless (i) the first use of such property is pursuant to such acquisition.

(vi) All of the Net Proceeds of the Bonds will be used to pay principal or interest, including the issuance costs, accrued interest, and capitalized interest on the Bonds.

(vii) The requirements of this paragraph (vii) are met if all of the nonqualified Bonds are redeemed on the earliest call date after the date on which the failure to properly use the proceeds occurs under paragraphs (i) through (iv) of this subsection. Proceeds of the Bonds (other than those described in subsection (b) of this Section) shall not be used for this purpose. If the Bonds are not redeemed within 90 days of the date on which the failure to properly use proceeds occurs, a defeasance escrow shall be established for those Bonds within 90 days of that date. The City shall provide written notice to the Commissioner of Internal Revenue of the establishment of the defeasance escrow within 90 days of the date the escrow is established.

(viii) For dispositions of personal property exclusively for cash, the requirements of this subsection (b) are met if the disposition proceeds are expended within 6 months of the date of the disposition to acquire replacement property for the same qualifying purpose of the Bonds. For purposes of this paragraph (viii), disposition

proceeds means disposition proceeds as defined in Section 1.141-12(c) of the Regulations.

(ix) For purposes of this subsection, the nonqualified Bonds are a portion of the outstanding Bonds in an amount that, if the remaining Bonds were issued on the date on which the failure to properly use the Net Proceeds occurs, the Net Proceeds of the remaining Bonds would be used to pay or reimburse costs that satisfy the requirements of paragraphs (i), (ii) and (iii) above. The nonqualified Bonds shall be determined on a pro rata allocation basis, except that Bonds with longer maturities (determined on a bond-by-bond basis) may be treated as the nonqualified Bonds.

When used in this Section, the term "Net Proceeds of the Bonds" shall mean the proceeds from the sale of the Bonds, including investment earnings on such proceeds, less accrued interest.

(c) Limitation on Maturity. The City covenants and agrees that the average maturity of the Bonds, taking into account the issue price of the various maturities of the Bonds, will not exceed 120 percent of the reasonably expected economic life of the Project, taking into account the respective cost of each item composing the Project. For purposes of the preceding sentence, the reasonably expected economic life of the Project shall be determined as of the date on which the Project was placed in service. In addition, land shall not be taken into account in determining the reasonably expected economic life of the Project.

(d) Costs of Issuance. The costs of issuance (within the meaning of Section 147(g) of the Code and applicable regulations thereunder) financed with the proceeds of the Bonds shall not exceed 2 percent of the proceeds from the sale of the Bonds.

(e) No Federal Guaranty. The City covenants and agrees not to take any action, or knowingly omit to take any action within its control, that, if taken or omitted, respectively, would cause the Bonds to be "federally guaranteed" within the meaning of Section 149(b) of the Code and applicable regulations thereunder, except as permitted by Section 149(b)(3) of the Code and such regulations.

(f) No-Arbitrage Covenant. The City shall certify, through an authorized officer, employee or agent that based upon all facts and estimates known or reasonably expected to be in existence on the date the Bonds are delivered, the City will reasonably expect that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148(a) of the Code and applicable regulations thereunder. Moreover, the City covenants and agrees that it will make such use of the proceeds of the Bonds, including interest or other investment income derived from Bond proceeds; regulate investments of proceeds of the Bonds; and take such other and further action as may be required so that the Bonds will not be "arbitrage bonds" within the meaning of Section 148(a) of the Code and applicable regulations thereunder.

(g) Arbitrage Rebate. The City will take all necessary steps to comply with the requirement that certain amounts earned by the City on the investment of the "gross proceeds" of the Bonds (within the meaning of Section 148(f)(6)(B) of the Code), be rebated to the federal government. Specifically, the City will (i) maintain records regarding the investment of the gross proceeds of the Bonds as may be required to calculate the amount earned on the investment of the gross proceeds of the Bonds separately from records of amounts on deposit in the funds and accounts of the City allocable to other bond issues of the City or moneys which do not

represent gross proceeds of any bonds of the City, (ii) calculate at such times as are required by applicable regulations, the amount earned from the investment of the gross proceeds of the Bonds which is required to be rebated to the federal government, and (iii) pay, not less often than every fifth anniversary date of the delivery of the Bonds, or on such other dates as permitted by applicable regulations, all amounts required to be rebated to the federal government. Further, the City will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Bonds which is not purchased at fair market value or includes terms that the City would not have included if the Bonds were not subject to Section 148(f) of the Code.

(h) Information Reporting. The City covenants and agrees to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds are issued, an information statement concerning the Bonds, all under and in accordance with Section 149(e) of the Code and applicable regulations thereunder.

(i) Continuing Obligation. Notwithstanding any other provision of this Ordinance, the City's obligations under the covenants and provisions of this Section shall survive the defeasance and discharge of the Bonds.

ARTICLE XIV

CONTINUING DISCLOSURE UNDERTAKING

Section 14.01 Annual Reports

(a) The City shall provide annually to the MSRB (1) within six (6) months after the end of each fiscal year (beginning with the fiscal year stated in the Pricing Certificate) financial information and operating data with respect to the City of the general type included in the Official Statement approved by the Pricing Officer, and described in the Pricing Certificate, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

(b) If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any documents available to the public on the MSRB's Internet Web site or filed with the SEC.

Section 14.02 Material Event Notices

(a) The City will provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

- (i) principal and interest payment delinquencies;
- (ii) nonpayment-related defaults, if material;
- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax-exempt status of the Bonds, or other material events affecting the tax status of the Bonds;
- (vii) modifications to rights of Owners of the Bonds, if material;
- (viii) bond calls, if material, and tender offers;
- (ix) defeasance;
- (x) release, substitution, or sale of property securing repayment of the Bonds, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (xiv) appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, any event described in the immediately preceding paragraph (12) is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such

jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

(b) The City will notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 14.01 of this Ordinance by the time required by such Section.

Section 14.03 Filings with the MSRB

All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

Section 14.04 Limitations, Disclaimers, and Amendments

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 14.02 of this Ordinance that causes Bonds no longer to be outstanding.

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Bonds under the Rule, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City makes does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(c) No default by the City in observing or performing its obligations under this Article shall comprise a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Article, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Bonds. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 14.02 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

ARTICLE XV

MISCELLANEOUS

Section 15.01 Further Procedures

The Mayor, the City Manager, the Deputy City Manager for Finance and Management Support Services, the City's Chief Financial Officer, the Director of Aviation, the City Clerk and/or the Alternate City Clerk of the City and all other officers, employees and agents of the City, and each of them, shall be and they are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and under the seal of the City and on behalf of the City all agreements, instruments, or such other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the initial sale and delivery of the Bonds, and the Paying Agent/Registrar Agreement. In addition, prior to the initial delivery of the Bonds, the Mayor, the City Clerk, the Alternate City Clerk, the City Manager, the Deputy City Manager for Finance and Management Support Services, the City's Chief Financial Officer, the Director of Aviation, and the City's Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance: (i) in order to cure any technical ambiguity, formal defect, or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such ministerial changes are consistent with the intent and purpose of the Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Section 15.02 Severability

If any Section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 15.03 Open Meeting

It is hereby found, determined and declared that a sufficient written notice of the date, hour, place and subject of the meeting of the City Council at which this Ordinance was adopted was posted at a place convenient and readily accessible at all times to the general public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code, as amended, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 15.04 Municipal Bond Insurance

The Bonds may be sold with the principal of and interest thereon being insured by a municipal bond insurance provider authorized to transact business in the State of Texas. The Pricing Officer is hereby authorized to make the selection of municipal bond insurance (if any) for the Bonds and make the determination of the provisions of any commitment therefor.

Section 15.05 Effective Date

This Ordinance shall take effect and be in force from and after its passage and approval.

Section 15.06 Repealer

All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

[Remainder of page intentionally left blank.]

APPROVED AND ADOPTED this 5 day of April, 2011.

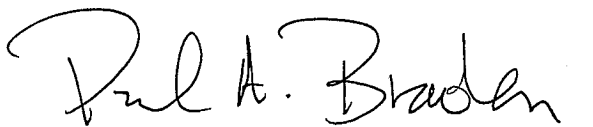
John F. Cook
Mayor, City of El Paso, Texas

ATTEST:

Richarda Duffy Momsen
City Clerk, City of El Paso, Texas

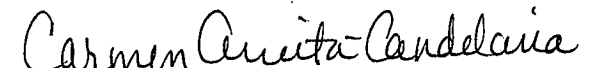
(SEAL)

APPROVED AS TO FORM:




Paul A. Braden
Bond Counsel for the City

APPROVED AS TO CONTENT:



Carmen Arrieta-Candelaria
Chief Financial Officer, City of El Paso, Texas



Bertha A. Ontiveros
Assistant City Attorney, City of El Paso, Texas

FULBRIGHT & JAWORSKI L.L.P.

A REGISTERED LIMITED LIABILITY PARTNERSHIP

WWW.FULBRIGHT.COM

MEMORANDUM

TO: Joyce Wilson, City Manager
Carmen Arrieta-Candelaria, Chief Financial Officer
Richarda Duffy Momsen, City Clerk

FROM: Paul A. Braden

DATE: March 30, 2011

RE: An Ordinance authorizing the issuance of "City of El Paso, Texas, Airport Revenue Bonds, Series 2011 (El Paso International Airport)"; and resolving matters which are necessary to effectuate said issuance, including the delegation of authority [Public Hearing Date: April 12, 2011]

INTRODUCTION AND PUBLIC HEARING OF ORDINANCE – City Council Meeting, Tuesday, April 12, 2011

As requested, please accept the enclosed Ordinance for introduction and public hearing by the City Council at its regular City Council meeting to be held on April 12, 2011. The proceeds from the sale of the Bonds will be used for the purposes of: (i) improving, enlarging, extending or repairing the El Paso International Airport (the "Airport") or a building, improvement, landing field, or other facility the City considers necessary, desirable or convenient for the efficient operation and maintenance of the Airport, (ii) funding the Debt Service Reserve Fund, and (iii) paying the costs of issuing the Bonds.

Pursuant to Chapter 1371 of the Texas Government Code, the Ordinance authorizes each of the City Manager, the Deputy City Manager for Finance, the Chief Financial Officer of the City or the Director of Aviation to finalize the terms of the Bonds within certain specified parameters. The parameters are set forth in Section 2 of the Ordinance.

Pursuant to Section 1201.028 of the Texas Government Code, this Ordinance is scheduled to be approved at a single meeting of the City Council. Notice of this public hearing is being published as required by the City Charter.

I will attend the City Council meeting to answer questions concerning this item. In the meantime, please do not hesitate to call me at 351-6053 if you need additional information.

Thank you for your attention to this matter.

Enclosure

cc: Charles McNabb, City Attorney (*via electronic mail*)
William F. Studer, Jr., Deputy City Manager of Finance and Management Support (*via electronic mail*)
Bertha A. Ontiveros, Assistant City Attorney (*via electronic mail*)
Monica Lombraña, El Paso International Airport (*via electronic mail*)
Jeff Schultes, El Paso International Airport (*via electronic mail*)
Cecilia Bertolli, El Paso International Airport (*via electronic mail*)
George Williford, First Southwest Company (*via electronic mail*)
Maria Urbina, First Southwest Company (*via electronic mail*)

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Airport

AGENDA DATE: August 24, 2010

CONTACT PERSON/PHONE: Monica Lombraña, A.A.E. 780-4724

DISTRICT(S) AFFECTED: All

SUBJECT:

Approval of Department of Aviation's, El Paso International Airport (EPIA), five-year capital improvement plan in the estimated amount of \$63,447,010.

BACKGROUND / DISCUSSION:

EPIA has a five-year programmed capital improvement program totaling an estimated \$63,447,010, to be funded with various funding sources as denoted below, to include one project (Butterfield Trail Industrial Park Pavement Rehabilitation and Landscaping) to be funded with revenue bonds.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

Various – Federal Aviation Administration Capital Improvement Program Grants
Passenger Facility Charge Program
Airport Enterprise Fund
Revenue Bonds

*******REQUIRED AUTHORIZATION*******

LEGAL: (if required) _____

FINANCE: (if required) _____

DEPARTMENT
HEAD: _____

Monica Lombraña

(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

RESOLUTION

WHEREAS, on Oct. 27, 2009, the El Paso City Council reaffirmed its Debt Management Policy, which sets forth the parameters for issuing new debt for the City of El Paso; and

WHEREAS, the policy direction provided by the El Paso City Council has been to develop capital plans for proposed projects pursuant to the approved Debt Management Policy; and

WHEREAS, the Debt Management Policy establishes the types of bonds that may be used to fund capital improvement projects at the lowest costs possible and states that Revenue Bonds will be issued for projects that generate revenues that are sufficient to repay the debt; and

WHEREAS, in accordance with the policy direction provided by the El Paso City Council, the City staff has developed a proposed listing of capital projects at the El Paso International Airport to be undertaken in fiscal years FY 2011 through FY 2015, and one identified project has been proposed to be funded by the City issuing long term debt,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

1. **THAT** the El Paso City Council approves the list of projects totaling approximately \$63,500,000.00, referenced as the "El Paso International Airport Proposed Five Year Capital Improvement Plan", attached hereto as Exhibit "A", as the established list of Airport Capital Improvement Program projects for FY 2011 through FY 2015 and the El Paso City Council approves utilizing Revenue Bonds and other funding mechanisms pursuant to the City Debt Management Policy for the BTIP Pavement Rehab/Landscaping Project; and
2. **THAT** the City Manager be authorized to establish the funding sources for the projects enumerated in the "El Paso International Airport Proposed Five Year Capital Improvement Plan" and make all necessary budget transfers at the appropriate times for execution of the projects.

PASSED AND APPROVED this ____ day of _____ 2010.

CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Theresa Cullen
Deputy City Attorney

APPROVED AS TO CONTENT:

Monica Lombraña
Monica Lombraña, A.A.E.
Director of Aviation

Exhibit "A"

**City of El Paso, Texas - El Paso International Airport
Five Year Capital Improvement Plan**

Project Type & Name	Funding Source	FY 2011 Budget Estimated	FY 2012 Budget Estimated	FY 2013 Budget Estimated	FY 2014 Budget Estimated	FY 2015 Budget Estimated	Grand Total All Years
BTIP Pavement Rehab/Landscaping	Revenue Bonds	7,500,000	7,500,000				15,000,000
Long-Term Covered Parking	Airport	1,000,000					1,000,000
Master Plan Update	FAA/PFC	1,263,158					1,263,158
Pavement Rehab - Rwy 8L-26R & Twys "N", "U", & "V"	FAA/PFC	3,234,402					3,234,402
Rental Car Expansion (Includes demo of Air Cargo #1)	Airport	1,000,000					1,000,000
New Loading Bridge (2 ea.	PFC	350,000	350,000				700,000
Pavement Rehabilitation	FAA/PFC	3,894,737	5,220,065				9,114,802
Taxiway Radius Geometry	PFC	800,000	2,200,000	2,200,000			5,200,000
Pavement Rehab - Twy "A"	FAA/Airport		4,000,000				4,000,000
Terminal Sidewalk Improvements	Airport		300,000				300,000
Lift Station Improvements	Airport		1,000,000	2,727,178			3,727,178
GSE Facility	PFC			1,447,275			1,447,275
Safety Equipment	FAA/PFC	60,000	60,000	60,000	60,000	60,000	300,000
Pavement Rehab - Rwy 4-22	FAA/PFC			5,220,065	5,220,065	5,220,065	15,660,195
Parking Improvements	Airport				1,500,000		1,500,000
Total Airport Improvements		\$ 19,102,297	\$ 20,630,065	\$ 11,654,518	\$ 6,780,065	\$ 5,280,065	\$ 63,447,010

<i>By Funding Source</i>	Funding Source	FY 2011 Budget Estimated	FY 2012 Budget Estimated	FY 2013 Budget Estimated	FY 2014 Budget Estimated	FY 2015 Budget Estimated	Grand Total All Years
	FAA AIP	8,029,682	8,816,062	5,016,062	5,016,062	5,016,062	31,893,930
	PFC	1,572,615	2,814,003	3,911,278	264,003	264,003	8,825,902
	Revenue Bonds	7,500,000	7,500,000				15,000,000
	Airport	2,000,000	1,500,000	2,727,178	1,500,000		7,727,178
	All Sources	\$ 19,102,297	\$ 20,630,065	\$ 11,654,518	\$ 6,780,065	\$ 5,280,065	\$ 63,447,010